

**BEFORE THE COLORADO DEPARTMENT OF REVENUE
STATE OF COLORADO**

IN THE MATTER OF PROPOSED REVISIONS TO REGULATION NUMBER 39-29-106(5)(1 CCR 201-10) – CONCERNING THE RATE OF SEVERANCE TAX ON COAL

PRE-HEARING COMMENTS OF THE COLORADO MINING ASSOCIATION

I. INTRODUCTION

The Colorado Mining Association (“CMA”) submits the following prehearing comments concerning the Department’s Notice of Proposed Rulemaking, August 31, 2006, to amend regulation 39-29-106(5) (1 CCR 201-10), concerning the rate of severance tax on coal (the “Proposed Rulemaking”). *See* Attachment A.

CMA is a trade association established in 1876 (and incorporated in 1897) whose more than 600 members include both individuals and organizations engaged in the exploration for, and production and refining of, coal, metals (e.g., molybdenum, gold, silver, etc.), oil shale and industrial minerals throughout Colorado and the western United States. CMA members also include firms that manufacture and distribute mining equipment and supplies to the mineral industry, as well as organizations that provide consulting, environmental and other services. CMA’s organizational interests include participating in administrative proceedings that may adversely affect the mining industry in Colorado. Several CMA member companies are subject to the severance tax on coal in Colorado. CMA and its members would be adversely affected by the Proposed Rulemaking, if finalized.

On October 23, 2006, the Department, without explanation, issued a “Notice of Cancellation of Rule-Making Hearing” in the matter. *See* Attachment B. Because the cancellation only pertains to the hearing originally scheduled for November 1, 2006 (and does not withdraw the Rulemaking itself), CMA believes the Department would still benefit from the receipt and careful review of input from CMA and other stakeholders.

II. SUMMARY OF CMA’S COMMENTS

CMA urges the Department to immediately withdraw the Proposed Rulemaking, for the following reasons:

- The Department’s proposed reinstatement of the quarterly indexing of the coal severance tax is both a prohibited tax policy change and a prohibited tax increase under the “Taxpayers Bill of Rights” (“TABOR”), Colo. Const. art. X, § 20, resulting in a net revenue gain to the state which cannot be implemented without prior voter approval. *See* Colo. Const. art. X, § 20 4(a). Instead of the required analysis of the revenue impact of the proposed rate and policy change, the Department asserts that because the coal severance tax would be allowed to increase based upon a measure of inflation, the tax does not violate TABOR. This

declaration improperly applies TABOR's spending limitation to the Department's rate and policy change, side stepping the required pre-implementation net revenue gain analysis. Further, the Department provides no fiscal analysis of its proposed rate and policy change to determine whether it would satisfy the TABOR spending limitation criteria.

- The Department fails to supply a reasoned analysis for changing its longstanding interpretation of TABOR's impact on the indexing provisions. In 1993, the Department announced that it would no longer impose the quarterly indexed adjustment to the rate of the coal severance tax as a result of the passage of TABOR. See Colorado Coal Severance Tax Rate Notice (the "1993 Notice"), Attachment C. For thirteen years the Department has continued to maintain that the quarterly coal severance tax adjustment would violate TABOR if enforced. While the Department has proposed to change its policy, it has yet to provide any evidence that a reasoned analysis has been conducted to support this change. Merely declaring that the change is not a violation of TABOR without any analysis of that point does not indicate that a reasoned analysis has been conducted by the Department.
- In the absence of a proper explanation, the Department has incorrectly analyzed the structure of the severance tax and the indexing provisions for coal, stating erroneously that the coal severance tax is no different than a percentage tax, such as the sales tax. Such taxes, however, are based on a percentage of the price of goods sold and are clearly different from the coal severance tax, which is a fixed rate tax based on the quantity of a good produced (tons of coal).
- Had the Department provided a fiscal analysis of its proposal, it would have concluded that the increase in the severance tax rate does result in a real dollar increase in the tax. In the absence of a Department fiscal analysis, CMA commissioned an analysis on this point by Dr. Tucker Hart Adams, one of the state's most respected economists. The results of Dr. Adams' analysis demonstrate that applying the Proposed Rulemaking would result in a 46.2% real dollar increase in the tax; a clear violation of the TABOR limits.
- In addition to violating TABOR, the Department's proposal to retroactively impose "missed" coal severance tax increases between 1992 and 2006 would also exceed the Department's statutory authority, granted by the General Assembly under C.R.S. §39-29-106.

III. SUMMARY OF THE PROPOSED RULES

The Proposed Rulemaking was accompanied by a Statement of Basis and Purpose which proposes to (i) update the current Regulation 39-29-106(5) to reflect the base rate set forth in CRS §39-29-106(5) retroactively from 1993 to 2006; and (ii) from January 1, 2007 forward reinstitute the quarterly indexing of the severance tax rate based upon the Producer Price Index

("PPI"). See Attachment D. The Proposed Rulemaking Notice does not specifically identify what proposed revised coal severance tax rate might become effective January 1, 2007. However, individual Department letters dated August 31, 2006 to several Colorado coal companies indicate that had the indexing of the severance tax rate continued after the adoption of TABOR, the tax rate as of August 2006 would have been \$0.72 per ton. See August 31, 2006 Letter from Neil Tillquist, Colorado Department of Revenue to ColoWyo Coal Company, Attachment E.

The Department has asserted that TABOR does not clearly prohibit the imposition of a coal severance tax rate increase. See Statement of Basis and Purposes Re: Regulation 39-29-106(5) Rate of Tax on Coal (1 CCR 201-10 Severance Tax), Department of Revenue, August 2006. Conversely, the Department later states that the increase in the coal severance tax rate would not be a violation of TABOR, based upon its analogy to a sales tax. Specifically, the Department states in the Statement of Basis and Purpose:

"[A] tax rate based on a percentage of price (e.g., a 2% sales tax) will produce an increase in nominal tax dollars as the price of the commodity increases with inflation. In real dollar terms, this type of tax rate is revenue neutral. It is beyond any reasonable debate that a percentage tax rate does not violate TABOR."

The Department's "beyond any reasonable debate" assertion does not reference any supporting authority. Further, it fails to reference, much less consider, the required TABOR net revenue analysis, fails to acknowledge that a change in the rate of a percentage tax still requires the appropriate analysis under TABOR and fails to address the economic factors affecting the Colorado coal industry. Finally, the Department's comparison of the coal severance tax to the sales tax fails because the coal severance tax is a fixed rate tax and not a percentage based tax. The indexing mechanism for the coal severance tax rate is tied to the PPI for all commodities and not based upon the price of Colorado coal, inaccurately reflecting the economic conditions of the Colorado coal industry.

IV. APPLICABLE STATUTORY, CONSTITUTIONAL AND REGULATORY PROVISIONS

A. The 1977 Colorado Coal Severance Tax Statute

The Colorado severance tax statutes were originally enacted by the Colorado General Assembly in 1977. For each of the minerals excluded from the definition of metallic minerals in the severance tax statutes, there is a specific section imposing a separate severance tax on each one. See C.R.S. § 39-29-104 (severance tax on molybdenum) and C.R.S. § 39-29-106 (severance tax on coal). As enacted in 1977, the severance tax assessed on each ton of coal, subject to the credits and exemptions set forth by statute, was \$0.60 per ton. See C.R.S. § 39-29-106 (1) 1977. This \$0.60 per ton severance tax was subject to a one percent increase or decrease for every three point change on a quarterly basis in the wholesale price index. See C.R.S. § 39-29-106 (5) 1977. In 1979, the General Assembly amended the coal severance tax to reflect the change in the name of the Wholesale Price Index to the PPI.

B. The TABOR Amendment to the Colorado Constitution

In 1992, the voters of Colorado approved the TABOR amendment to the State's constitution. Colorado courts recognize that the primary purpose of TABOR is to require voter approval of all proposed tax increases. See *Olson v. City of Golden*, 53 P.3d 747 (Colo. Ct. App. 2002); *Bd. of County Comm'rs v. Broomfield*, 7 P.3d 1033, 1037 (Colo. Ct. App. 1999). Colorado courts have also observed that TABOR removes control over tax increases from state and local governments and places that authority exclusively with the Colorado electorate. *City of Wheatridge v. Cerveney*, 913 P.2d 1110, 1124 (Colo. 1996). Additionally, section 1 of TABOR specifically states that TABOR supersedes all conflicting state constitutional and statutory provisions:

(1) **General provisions.** This section takes effect December 31, 1992 or as stated. Its preferred interpretation shall reasonably restrain most the growth of government. All provisions are self-executing and severable and *supersede conflicting state constitutional, state statutory, charter, or other state or local provisions.*

Colo. Const. art. X, § 20(1) (emphasis added).

An integral feature of TABOR is its mandate that a "district" (defined as any state or local government) not impose any new tax, tax rate increase or tax policy change that directly causes a net revenue gain to the district. Pursuant to TABOR, any tax rate increase or tax policy change that results in a net revenue gain must have advanced voter approval. See Colo. Const. art. X, § 20(4)(a). No tax rate increase or tax policy change that results in a net revenue gain will violate TABOR if: (i) it is approved in advance by the voters; (ii) any tax increases are offset by a reduction to a tax which is "an integral part of the tax policy in question" (i.e. the offset results in no net revenue gain), or (iii) it does not directly cause a net tax revenue gain. See Formal Opinion of the Attorney General No. 96-1.

TABOR has been construed on a number of occasions by the Colorado Supreme Court and the lower Colorado courts. For example, the State Supreme Court has held that any existing statute that grants either the General Assembly or the executive branch authority to increase existing taxes or tax rates or to enact new taxes is superseded and void once TABOR became effective in 1993. See *Bolt v. Arapahoe County School Dist. No. Six*, 898 P.2d 525 (Colo. 1995).

C. Colorado Department of Revenue Regulations - 39-29-106

Despite the many statutory amendments noted above, the regulations promulgated and adopted by the Department to implement the coal severance tax have remained virtually unchanged since at least 1984.

Regulation 29-106(1) and (5) provide that the base coal severance tax rate shall be \$0.60 per ton, with a one percent increase or decrease in such amount for every three point change in the Wholesale Price Index. Additionally, Regulation 29-106(2) provides that the exemption from the tax shall be applied to the first 8,000 tons of coal produced each quarter.

As noted above, in 1979 the General Assembly amended the coal severance tax statute to reflect the change in name of the Wholesale Price Index to the PPI. Additionally, between 1984 and 1999, the General Assembly amended several times the amount of coal that would be exempt from the tax on a quarterly basis and the base rate of the tax to be imposed. However, between 1984 and 2006, Regulation 29-106 remained unchanged, but for the clarification of several definitions adopted by the Department in 2006. The Department's regulations have been essentially abandoned because they were never amended to reflect the amendments adopted by the General Assembly in 1979, 1984, 1988, 1994 and 1999.

V. THE DEPARTMENT'S PROPOSAL IS PROHIBITED BY THE COLORADO CONSTITUTION

A. The Proposed Severance Tax Increase Is Both a Prohibited "Tax Increase" and "Tax Policy Change"

Under TABOR the initial question that must be answered is whether a proposed tax is a new tax, a tax rate increase or a tax policy change. See Colo. Const. art. X, § 20 (4)(a). The coal severance tax is not a new tax; however, by increasing the severance tax rate by 33%, the Proposed Rulemaking is most certainly a tax rate increase. Further, the proposed reinstatement of the quarterly indexing procedure can be deemed a change in tax policy by the Department. As either a tax rate increase or tax policy change, the Proposed Rulemaking must receive advance approval by Colorado voters unless it can be demonstrated that it will not result in a "net tax revenue gain" to the state. See Colo. Const. art. X, § 20 (4)(a).

1. *The Department's Proposal Is a Prohibited "Tax Increase"*

"[A] tax 'increase' indicates that the tax burden borne by an individual taxpayer will be greater than its present amount." *Douglas Bruce v. City of Colorado Springs*, 129 P.3d 988, 995 (Colo. 2006). When "[t]he tax burden upon an individual taxpayer has not changed, and the tax has not increased in any meaningful sense" yet a tax revenue gain is realized, such a revenue gain is not a result of a tax increase. A tax increase "suggests a change that will impose a greater cost on the taxpayer." *Bruce v. Colorado Springs*, 129 P.3d at 995.

The Proposed Rulemaking is a prohibited TABOR "tax increase". Since 1993, the coal severance tax rate has been \$0.54 per ton. The Department has indicated that the current tax rate could increase to as much as, and possibly greater than, \$0.72 per ton. See Colorado Department of Revenue, *Letter from Neil Tillquist, to ColoWyo Coal*, page 2, August 31, 2006. This \$0.18 per ton increase means a 33% increase in the severance tax rate. It cannot be disputed that the proposed increase to the severance tax rate meets the Colorado Supreme Court's test, as set forth in *Bruce*. Applying the *Bruce* test, the Department's proposal to increase the coal severance tax rate is a tax rate increase under TABOR.

Additionally, it is evident that the Proposed Rulemaking will result in a tax increase when a fiscal impact analysis of the coal severance tax is conducted. Dr. Tucker Hart Adams has performed an analysis of the proposed severance tax increase and found that it clearly results in a tax increase under TABOR. See Tucker Hart Adams, Ph.D., *Coal Severance Taxes in Colorado*, October 30, 2006, Attachment F. Applying the economic analysis required under TABOR,

which the Department has not provided, Dr. Adams concludes that the Proposed Rulemaking would result in a 46.2% real increase in the rate of the severance tax between 1992 to 2006. See Attachment F, page 2. From 1992 to 2006 the increase in local inflation plus coal production volume was 142.4%. *Id.* If the coal severance tax had increased from \$0.54 per ton to \$0.72 per ton during this period, severance tax revenues would have been \$13.6 million, a 188.6% increase. *Id.* The percentage increase in the coal tax revenues less the percentage growth in coal production results in a 46.2% real increase in the rate of the severance tax between this time. Even if the analytical model replaces the volume of coal production as the measure of growth with the rate of population growth, a 106.9% tax increase results under the Proposed Rulemaking. *Id.*

The *Bruce* Court also addressed the issue of revenue neutrality and tax increases. *Bruce* concluded that should a government enjoy an increase in tax revenues as a result of a surge in population, no one would dispute that the net revenue gain to the government was not the result of a tax increase. *Bruce* 129 P.3d at 995. Nor does CMA argue that an increase in coal severance tax receipts as a result of a surge in coal production constitutes a tax increase. However, when the state seeks to quarterly adjust the rate of taxation upon coal, the resulting increase in tax revenues will be caused not just by the growth in coal production but mostly as a result of the Department increasing the tax rate. Just as any state or local government district would have to bring to the voters a proposal to increase the sales tax rate from 2% to 2.5%, so too must the Department, if it wishes to increase the coal severance tax rate.

2. *The Department's Proposal Is A Prohibited "Tax Policy Change"*

TABOR does not provide a definition of 'tax policy change', nor has there been any clarification to date from the courts as to the meaning of this term. Under traditional rules of statutory construction words in a statute or constitutional provision are to be given their plain meaning. As such, Webster's Collegiate Dictionary, Tenth Edition provides the following definitions for tax, policy and change. A tax is defined as "a charge usually of money imposed by authority on persons or property for public purposes." Policy means "a high-level overall plan embracing the general goals and acceptable procedures especially of a governmental body." Change is defined to mean "to give a different position, course, or direction to." From these definitions one can conclude that a tax policy change occurs when a district implements a change in the mechanism or procedures of an existing statute, regulation or policy regarding the imposition of a tax.

For thirteen years the tax policy of the Department has been clear; quarterly adjustments in the coal severance tax rate violate TABOR. This 1993 Notice of a policy change did not result in a net revenue gain to the state and was clearly permissible under TABOR. Now, the Department's proposed change to its post-TABOR tax policy will clearly result in a net revenue gain.

B. The Department Has Applied A Flawed Analysis

To begin with, TABOR establishes a two pronged approach to restrict the rate of government growth. On the revenue side, TABOR requires a determination whether any tax rate

increase or tax policy change will result in a net revenue gain to the applicable district. If so, advanced voter approval is required. See Colo. Const. art. X, § 20 4(a). On the spending side, TABOR limits the state's maximum annual percentage change in spending to not more than inflation plus the percentage change in the state's population. See Colo. Const. art. X, § 20 7(a). To date, the Department has only considered the consequences of the adjustment of the coal severance tax under the spending limitation prong of TABOR, bypassing the required revenue impact analysis for the proposed tax rate increase and policy change. By this flawed analysis, the Department attempts to justify the adjustment in the coal severance tax on the basis that because its increase would be tied to a measure of inflation, the adjustment to the coal severance tax is allowed under TABOR. "The coal tax statute's adjustment mechanism increases (or decreases) nominal tax dollars as the price of coal increases (or decreases), and yet keeps tax revenues neutral in real dollar terms." *Statement of Basis and Purposes Re: Regulation 39-29-106(5) Rate of Tax on Coal (1 CCR 201-10 Severance Tax)*, August 2006. Unfortunately only this declaratory statement, without any supporting analysis, is provided by the Department.

Under TABOR the analysis required in order to determine whether a tax is revenue neutral requires a district to consider prospectively what the revenue projections from the tax will be. See Attorney General Opinion No. 96-1. To simply assume that because a tax is based upon a percentage that any and all revenues derived from that tax will be revenue neutral is plainly false. Districts must consider the amount of revenue to be derived from the proposed tax and whether that revenue will result in the district exceeding the maximum level of growth allowed. TABOR imposes a maximum rate of growth on all districts, which allows the state to increase their fiscal year spending at the rate of inflation plus the percentage change in state population in the prior calendar year. See Colo. Const. art. X, § 20 (7)(a). Pursuant to the plain language of TABOR, the effect of inflation is only taken into consideration when determining the allowable rate of spending growth under TABOR. See Colo. Const. art. X, § 20 (7)(b) "The maximum annual percentage change in state fiscal spending equals inflation plus the percentage change in state population in the prior calendar year, adjusted for revenue changes approved by voters after 1991." *Id.*

Should a district's tax receipts exceed the allowable rate of growth under TABOR for a year, those receipts above the allowable percentage rate of growth are to be refunded to taxpayers. See Colo. Const. art. X, § 20 (7)(d). Only through Colorado voter approval may a district retain tax receipts above the allowable percentage rate of growth. Even if all of the district's tax receipts were based upon percentage tax rates, a district under TABOR may not retain tax receipts in excess of the approved level of growth unless approved by the voters.

No tax that results in a net revenue gain will violate TABOR if it is approved by the voters; or if it is offset by a reduction to a tax which is "an integral part of the tax policy in question"; or if it does not directly cause a net tax revenue gain. See Formal Opinion of the Attorney General, No. 96-1. However, some of that tax may still be subject to refund under TABOR if the overall tax receipts and the resulting amount of spending generated from these apparently revenue neutral taxes exceed the TABOR spending limitation.

The Department has put the cart before the horse in its analysis. In order for a tax policy change or tax increase to be permitted under TABOR, it must be first determined whether it will

result in a net revenue gain to the state. Whether at the end of the year the state may retain and spend all of the TABOR counted revenues it has received over the last year, including the coal severance taxes, depends upon what the rate of inflation and percentage change in population growth; not whether a tax was tied to a measure of inflation. Under TABOR, all taxes are subject to the overall spending limitation, even if they are tied to a measure of inflation.

C. The Proposed Coal Severance Tax Rate Increase Would Not Be Revenue Neutral

The Department asserts that because the coal severance tax is "indistinguishable from a percentage tax, in terms of its effect on nominal and real tax revenues" it cannot be a violation of TABOR. See Department of Revenue, *Statement of Basis and Purposes Re: Regulation 39-29-106(5) Rate of Tax on Coal (1 CCR 201-10 Severance Tax)*, August 2006. This argument fails for numerous reasons. As stated previously, the severance tax rate for coal is a fixed rate tax and the indexing provisions are not based on any percentage of the price of coal; they are based on the PPI for all commodities, which differs substantially from the inflationary pressures applicable to the Colorado coal industry. The Department has also failed to perform the required analysis under TABOR to determine whether the tax would result in a net revenue gain. Finally, the proposed tax increase is not "revenue neutral," as required by TABOR.

The Department asserts that a percentage "tax rate is revenue neutral." "Revenue neutrality," by its plain meaning, is the total amount of real dollars raised by the government that shall remain constant over time. Under TABOR districts must ensure that any tax rate increase or tax policy change will not result in a net revenue gain. The Department erroneously tries to justify the coal severance tax increase on the basis that when a percentage tax increase results in increased revenues, the spending of those tax revenues is revenue neutral and therefore are not prohibited under TABOR. As the nominal price of goods increases, revenues derived from the percentage sales tax will also increase in nominal dollars. *i.e.*, dollars unadjusted for inflation. Assuming that the tax base remains essentially constant, the resulting real tax revenues (*i.e.*, inflationary adjusted dollars) would be revenue neutral. However, a significant increase in the tax base would result in an increase in the real tax revenues collected, thereby resulting in a net tax revenue gain. Merely because a tax is a percentage tax it is not immune from resulting in an increase in real tax revenues.

Dr. Adams' analysis makes clear that the Department's proposed tax increase will in fact result in the substantial increase in real dollars received by the state through the severance tax on coal. When the proper inflationary analysis is applied to the Department's proposal, the state will realize at least a 46.2% real increase in revenues from the coal severance tax, and possibly an increase as high as 106.9%. TABOR strictly limits the rate at which the state may grow from year to year (*i.e.* inflation plus the percentage change in population). As demonstrated by Dr. Adams' analysis, the Proposed Rulemaking clearly exceeds that rate of growth permitted the state from 1992-2005.

Finally, the Department incorrectly maintains that the severance tax adjustment "increases (or decreases) nominal tax dollars as the price of coal increases (or decreases)." *Statement of Basis and Purposes Re: Regulation 39-29-106(5) Rate of Tax on Coal (1 CCR 201-10 Severance Tax)*, August 2006. The coal severance tax is a fixed rate tax assessed on the

volume of coal produced, not on the revenues generated from coal sales. Receipts from the coal severance tax will rise or fall as a result of the rate of production of coal, not as a result of the price of coal. This is an important distinction. A percentage tax that is assessed upon the cost of a good, such as a sales tax, is not the same as a fixed rate tax assessed on the amount of the good produced. Even if the Department's assertion that percentage taxes do not violate TABOR was correct, the coal severance tax is not a percentage tax and cannot be analyzed as such. The fact that the severance tax was originally tied to the PPI and therefore its effective rate was to be adjusted for inflation, does not mean that it operates in the same manner that a percentage based tax operates. The rate of a percentage tax is not automatically adjusted for inflation. Although the price of the good upon which a percentage tax is assessed will fall and rise with inflation, that does not mean, as outlined above, that the revenues derived from the tax will always be revenue neutral. Any proposed tax policy change or tax increase in Colorado - whether it is a fixed rate tax or a percentage tax - must first be analyzed under TABOR in order to determine whether it will result in a net revenue gain to the district.

Nor can it be maintained that the adjustment mechanism for the coal severance tax is determined by the increase or decrease in the price of Colorado coal. As proposed by the Department, the adjustment mechanism would be tied to the percentage change in the PPI for **all commodities**, not just coal. As discussed further in Section VII, the Department cannot maintain that the PPI is the correct way to measure the rate of inflation on Colorado coal when coal accounts for only .49% of the commodities measured in the PPI.

Nowhere within TABOR is there an exemption for tax rates that are adjusted for inflation. TABOR takes into account inflationary pressures only when determining the allowable rate of growth for a district. To attempt to bypass TABOR by justifying a tax increase that is tied to the rate of inflation fails to take into consideration the intent of TABOR. TABOR was designed to remove the control over tax increases from state and local governments and to place that authority exclusively with the Colorado electorate. *City of Wheatridge v. Cerverny*, 913 P.2d at 1124. Allowing a tax rate to increase based upon a measure of inflation would blatantly diminish the exclusive authority reserved to the Colorado electorate for controlling the rate and type of taxation within the state.

D. The Department's Rule is Also Contrary To the Colorado General Assembly's Repeal of Scheduled Increases in the Severance Tax

In 1994, the General Assembly was faced with the expiration of the 1988 coal severance tax amendment, which lowered the base coal severance tax to \$0.36 per ton of coal through June 30, 1994. The \$0.36 per ton severance tax was scheduled to automatically increase to \$0.60 per ton on July 1, 1994. The Department does not address or attempt to explain how its actions are not a prohibited increase in the tax rate, given the General Assembly's actions.

The legislative history of HB 94-1239 demonstrates that the repeal of the statutorily scheduled increase in the coal severance tax was due in part to the passage of TABOR. It was at the time of the 1994 statutory amendment to C.R.S. 39-29-106 that the General Assembly and the Colorado Legislative Council directly addressed whether TABOR was applicable to the coal severance tax. See Colorado Legislative Council, *Fiscal Note to HB 94-1239*, page 1, February

9, 1994. As detailed in Section VI. below, in 1993, one year prior to the 1994 Amendment, the Department announced in the 1993 Notice that the indexing provision of the coal severance tax statute would no longer be implemented based on a determination that the indexing provision violates TABOR.

With the Department having previously adopted a policy that the indexing of the coal severance tax must cease as a result of TABOR, the General Assembly moved to prevent the violation of TABOR through the repeal of the automatic increase in the base severance tax rate. Introduced by Representative Jack Taylor, HB 94-1239 prevented the increase in the base rate of the coal severance tax from \$0.36 to \$0.60. See 1994 Colo. Sess. Laws pgs. 334-335, *Concerning the Severance Tax Rate on Molybdenum Ore and Coal*.

In the fiscal note prepared by the Colorado Legislative Council to HB 94-1239, the Council concluded that under TABOR, the increase of the base coal severance tax would constitute a tax increase. "The severance tax rate increase scheduled to go into effect July 1, 1994, without voter approval, appears to be in conflict with this provision [TABOR]." See Colorado Legislative Council, *Fiscal Note to HB 94-1239*, page 1, February 9, 1994. Additionally, from statements made by the bill's sponsor, Representative Taylor, repeal of the increase in the base coal severance tax rate was proposed in part so as to avoid a prohibited tax increase under TABOR. In statements made before the February 16, 1994 House Committee on Finance hearing on HB 94-1239, Representative Taylor explained to his fellow legislators the TABOR impact that the increase in the base rate of the coal severance tax would have.

"[T]his really has an Amendment One [TABOR] impact and I would like to walk you through the last paragraph of page one where it says this section of the state constitution would seem to imply that any tax rate increase would need to go to the vote of the people prior to going into effect. Severance tax rate increase scheduled to go into effect July 1, 1994 without voter approval, appears to be in conflict with the provision. Therefore the repeal of the scheduled increase would not create a revenue impact to the state or local government. This interpretation of the state constitution would seem to be consistent with other TABOR interpretations made by the Colorado General Assembly. For purposes of this fiscal note, it is assumed that the interpretation of the state constitution mentioned above is correct and therefore this bill is assessed as having no fiscal impact."

In a question posed to Representative Taylor, the Chairman of the Finance Committee inquired:

"By allowing what is currently in statute to occur, in other words, an increase in the tax as it is in statute now. By removing that automatic, what would have been an automatic increase in the statute, then we are avoiding having, in other words, if we did not

do that, then that would have to be put before the people as an extension of the tax or increase of the tax.”

Representative Taylor: “That is correct, Mr. Chairman.”

The statements of the bill sponsor to the legislative committee considering HB 94-1239, demonstrates the legislative intent. *Archer Daniels Midland Company v. State of Colorado*, 690 P.2d 177, 183 (Colo. 1984); and *Hyland Hills Park and Recreation District v. Denver and Rio Grande Western Railroad Company*, 864 P.2d 569, 574 (Colo. 1993). Here, Representative Taylor, as the bill sponsor, stated that not repealing the automatic increase in the base coal severance tax rate would result in a tax increase under TABOR. Representative Taylor’s statements were contemporaneously supported by the conclusion, stated above, provided by the Colorado Legislative Council in its fiscal note analysis to HB 94-1239.

E. The Department Has Not Conducted a Reasoned Required Fiscal Analysis of the Proposed Coal Severance Tax Rate Increase

As stated in Attorney General Opinion No. 96-1, “[t]he most reasonable approach to determine whether any tax policy change directly causes a “net tax revenue gain to any district” would be to analyze the fiscal impact of such change.” This makes sense. Thus, if a tax policy change or tax increase is proposed, it is necessary pursuant to TABOR to first determine whether the proposed tax would directly result in a net tax revenue gain to a district. If after a fiscal impact analysis is completed, it can be demonstrated that the tax causes a net revenue gain to a district, that tax (in order to be effective) must first be approved by Colorado voters, as prescribed by TABOR. However, if there is no net tax revenue gain or if the revenue gain can be offset by a reduction in tax revenues from related taxes then no approval under TABOR is required. It is also important to note that any tax offset must come from a provision or program which is an integral part of the tax policy change in question. In this instance, however, the Department has failed to conduct any fiscal analysis as to the impact that the increase of the coal severance tax rate would have.

The Department offers no clear authority to support its assertion that the quarterly increase of the coal severance tax does not violate TABOR. The Department has simply not demonstrated any rational support for the proposed coal severance tax increase. The Department’s only proffered justification is that it (supposedly) has been advised by the Attorney General that they do “not have the authority not to enforce the coal rate statute on constitutional grounds unless the statute is clearly unconstitutional.” See Department of Revenue, *Statement of Basis and Purposes Re: Regulation 39-29-106(5) Rate of Tax on Coal (1 CCR 201-10 Severance Tax)*, August 2006. As discussed above, the Department determined that TABOR prohibited any increase in the coal severance tax rate in the 1993 Notice. Neither the Statement of Basis and Purpose, nor any guidance given by the Attorney General to the Department for the rulemaking, even begin to perform the analysis required by TABOR to support the Department’s proposed re-imposition of the coal severance tax’s adjustment mechanism thirteen years after its contrary determination that any increase under it would be unconstitutional. To base the enforcement of the coal severance tax on the statement that it is not clear that it violates TABOR is grossly insufficient to support the Department’s proposal to dramatically change its tax policy.

VI. THE DEPARTMENT'S PROPOSAL LACKS ANY RECORD SUPPORT FOR THE PROPOSED ACTION

As an administrative agency, the Department has an affirmative responsibility to conduct a reasoned decision making process with respect to any rulemaking proposal. To date, the Department has failed to put forth any detailed legal analysis as to why the Proposed Rulemaking would not be a violation of TABOR. Instead, the Department appears to rely upon the assertions that (i) it is "not clear" that the indexing of the coal severance tax violates TABOR, and (ii) with no supporting authority, percentage sales taxes are not a violation of TABOR. See Department of Revenue, *Statement of Basis and Purposes Re: Regulation 39-29-106(5) Rate of Tax on Coal (1 CCR 201-10 Severance Tax)*, August 2006. Neither is evidence of a reasoned decision making process.

In fact, the Proposed Rulemaking directly contradicts the agency's own contemporaneous interpretation of the TABOR amendment following its passage in 1992. In the months immediately following the passage of TABOR, on April 7, 1993, the Department issued the 1993 Notice. Citing the need to resolve the applicability of TABOR to the indexing provisions of the coal severance tax rate, the Department announced in the 1993 Notice that the coal severance tax rate would be frozen at \$0.54 per ton pending further announcement. The position taken by the Department was that TABOR prevented the increases in the coal severance tax. The Department subsequently reaffirmed its policy, as seen in an undated Department document prepared sometime after February 13, 1998. Within this undated Department document, the Department restated its earlier policy determination published in the 1993 Notice that the indexing mechanism of the coal severance tax would constitute a tax rate increase under TABOR. "Director Fagan's review of the relevant provisions resulted in a determination that no further increases in the coal severance tax rate could be made for increases in the producer price index." See Colorado Department of Revenue Memo, *Colorado Coal Severance Tax Rates, Adjustment for Changes in Producers Prices*, undated, Attachment G. The Department has consistently enforced this policy for the past thirteen years.

The Department's 1993 Notice, as a result of TABOR, that indexed increases to the coal severance tax rate would no longer be implemented, modified the standards and rules regarding the imposition of the coal severance tax and established a tax policy that has been consistently applied for the past thirteen years. While the Department did not issue a formal change to Regulation 39-29-106(5), it nonetheless made a formal announcement in the 1993 Notice that the rules regarding the imposition of the coal severance tax were being changed, establishing a tax policy. Under agency law, agencies, such as the Department, have the right to develop new policies and methodologies. When an agency seeks to depart from a consistent precedent, it must provide "a principled explanation for its change of direction." *National Black Media Coalition v. FCC*, 775 F.2d 342, 355 (D.C. Cir. 1985); *Hatch v. FERC*, 654 F.2d 825, 834 (D.C. Cir. 1981). Certainly, when departing from a thirteen year policy, the Department must provide a principled explanation.

Administrative agencies, like the Department, must further demonstrate that they have pursued a reasoned decision-making process in determining that a change in policy is required. "[T]he agency must examine the relevant data and articulate a satisfactory explanation for its

action including a 'rational connection between the facts found and the choice made.'" *Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co.*, S.Ct. 2856, 2866-67 (1983). See also *City of Montrose v. Public Utilities Comm.*, 590 P.2d 502, 506 (Colo. 1979). At the very least "an agency changing its course must supply a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored, and if an agency glosses over or swerves from prior precedents without discussion it may cross the line from the tolerably terse to the intolerably mute." *Greater Boston Television Corporation v. FCC*, 444 F.2d 841,852 (D.C. Cir. 1970).

VII. THE DEPARTMENT CANNOT RETROACTIVELY INCREASE THE COAL SEVERANCE TAX RATE

As the Department may not increase the severance tax rate prospectively under TABOR, so too does the Department lack the authority to increase the tax rate retroactively to "catch up" for missed adjustments. The fact that the existing severance tax scheme was in existence before TABOR also does not grant the Department the legal authority to retroactively impose "missed" severance tax increases. Furthermore, the proposal of the Department to take affirmative steps to increase the severance tax rate based upon past quarterly adjustments is a change to the existing tax scheme and a rate increase, and is clearly outside the authority granted the Department pursuant to CRS §39-29-106. "A regulation may only carry into effect the will and policy established by the legislature and may not modify or contravene the existing statute." *Cohen v. Department of Revenue*, 197 Colo. 385, 390. "[W]hen an administrative official misconstrues a statute and issues a regulation beyond the scope of a statute, it is in excess of administrative authority granted." *Travelers v. Barnes*, 191 Colo. 278, 282 (Colo. 1976).

While C.R.S. §39-29-106 does provide for the base tax rate to be adjusted up or down depending upon the PPI, the statute does not provide that in the event the tax is not increased that the Department may retroactively impose missed severance tax increases. The proposal of the Department to retroactively impose missed severance tax increases is "beyond the scope of the statute" and exceeds the administrative authority granted the Department under the statute.

C.R.S. §39-29-106(5) provides that the coal severance tax rate is scheduled to increase or decrease with a change in the PPI, as determined by the Executive Director of the Department. The Department's August 31, 2006 letter to the Colorado coal companies states that the Department would measure any increase or decrease to the severance tax rate based upon the PPI for all commodities. "The statute establishes a base rate and requires a one percent increase or decrease for every full one and a half percent change in the index of producers' prices for all commodities as prepared by the United States Bureau of Labor Statistics."

Utilizing the PPI for all commodities to determine the percent change to the coal severance tax, however, fails to focus solely on the average quarterly changes in the selling prices of Colorado coal. The PPI for all commodities "measures the average change over time in the selling prices received by domestic producers of goods and services." See The Bureau of Labor Statistics, Department of Labor, Frequently Asked Questions, <http://www.bls.gov/ppi/ppifaq.htm>. The PPI is made up of over 10,000 PPIs for individual products. Of those 10,000 PPIs, several include indexes specific to the coal industry. There is a

Coal Mining PPI; a Bituminous Coal and Lignite Surface Mining PPI; and a Bituminous Coal Underground Mining PPI. Within the Bituminous Coal and Lignite Surface Mining PPI and the Bituminous Coal Underground Mining are specific coal products sold by producers of which individual PPI's may be obtained. Currently, coal accounts for only .49% of the commodities measured in the PPI for all commodities. By applying the PPI for all commodities as a measurement of the percentage change in coal prices, the Department is using an index that does not accurately reflect the price changes of Colorado coal.

The Department seeks to justify the increase in the severance tax on the basis that the tax, since it is tied to the PPI, will only increase nominal revenues. As noted earlier, an analysis of the fiscal impact of the increase in the coal severance tax demonstrates that this is not correct. See Tucker Hart Adams, Ph.D., *Coal Severance Taxes in Colorado*, October 30, 2006. Additionally, if the Department were to reinstitute the quarterly adjustments based upon the PPI the percentage increase that would be applied to the tax would be considerably greater than the inflationary pressures measured under other indexes for the Colorado coal industry in the last thirteen years. In comparing just the annual percentage change between the coal mining PPI and the all commodities PPI from 1992 through 2005, in only five out of the thirteen years was the annual percentage change of the coal mining PPI greater than the annual percentage change of the all commodities PPI.

In every other year the annual percentage change of the all commodities PPI was greater than the annual percentage change in the coal mining PPI. From 1992 to 2005 the total annual percentage change in the all commodities PPI was 31%, while only 22.3% in the coal PPI. If the Department bases its quarterly adjustments to the severance tax upon the PPI, the tax burden upon coal producers will be significantly greater than the rate of inflation measured by the coal PPI. It is clear that by utilizing the PPI to measure the rate of inflation upon coal producers, the Department will impose a significant increase in the severance tax rate.

To date, the Department has yet to publish an analysis of what it believes the changes to the applicable index have been. It is evident from the above data that utilizing the PPI for all commodities does not accurately reflect the inflationary pressures felt by the Colorado coal industry. The percentage change in the increase of the PPI for all commodities is approximately 9% greater than the percentage increase seen in just the United States coal industry. After conducting the proper TABOR analysis, if the Department ultimately changes its policy and recommences adjustments in the coal severance tax rate, it is necessary that they analyze whether using the PPI for all commodities will provide an accurate reflection of the inflationary pressures felt by the Colorado coal industry.

VIII. NO ATTORNEY GENERAL OPINION CAN RATIONALLY BE READ TO SUPPORT THE DEPARTMENT'S PROPOSAL

It has been suggested that Attorney General Opinion No. 93-3 controls. See Attachment H. Yet, a close and complete review reveals that the underlying facts involved in that Opinion differ greatly from those of the coal severance tax. Under the circumstances in which that opinion was sought, the taxes imposed upon employers were determined by a set of criteria set forth in statute. The criteria used to determine an employer's tax rate included an employer's

"excess" (the amount the employer had paid into the unemployment fund less the amount paid out to former employees); the balance of the unemployment fund; the amount of paid benefits that are not chargeable; and the tax rate schedules. It was determined that the amount of unemployment tax that an employer may pay from year to year could vary as a result of the existing statutory criteria; not as a result of any change in the statute or regulations.

The Attorney General based this conclusion on two factors. First, as there was no proposed change to, or increase of, the unemployment tax rates or the tax criteria specified in the statute the yearly increases and decreases in the unemployment tax rate were not subject to TABOR. Secondly, as the unemployment tax rate and criteria had been established prior to the adoption of TABOR, any statutory mechanism that resulted in yearly fluctuations of the tax rate was determined by a former Attorney General to not be subject to TABOR. Notably, the unemployment tax rate changes occurred without a volitional act of the agency.

In the current situation, the Department made a tax policy decision soon after the passage of TABOR to cease implementing the statutory formula for calculating the coal severance tax as such renewal violates TABOR. The Department's tax policy was continuously applied for the first thirteen years immediately following the adoption of TABOR. The regulated community substantially relied upon the Department's policy. Executive Director Michael Cooke recognized these facts in her August 17, 2006 letter to Senator Taylor and Representative White, stating: "The rate (\$0.54 per ton) has not been increased since 1992 because prior management in the Department concluded that an increase would violate the State Constitution (Taxpayer Bill of Rights)." The Department now seeks to reverse its long established tax policy by proposing to dramatically increase the coal severance tax rate.

Unlike the present situation, in the case of the unemployment tax assessment addressed in Attorney General Opinion No. 93-3, there was no action taken by the Department of Labor to either freeze, change or increase the unemployment tax rate or any other statutory or regulatory provision. The current rulemaking proposes to change the severance tax rate and method of the computation of the severance tax. Neither the current statute or regulation provide that should the Department retroactively seek to impose the missed tax increase if it has specifically ruled otherwise. By seeking to retroactively impose thirteen years worth of missed severance tax adjustments the Department is changing the method of how the severance tax is computed. In the case of the unemployment tax assessment, the Opinion of the Attorney General clearly stated that so long as there is no change to the method of how the tax rate is computed or the tax rate schedules, the unemployment tax criteria established prior to TABOR is not subject to the provisions of TABOR. Only automatic, fixed rate changes, in place before TABOR, which occur without any action by the Department, unlike the severance tax adjustment mechanism, are not considered new taxes or tax increases.

When read fully, Attorney General Opinion 93-3 clearly supports CMA's concern regarding the legal defects in the Department's proposal. Opinion No. 93-3 states that so long as an agency does not attempt to make a "change to the method of calculation and tax rate schedules" a tax that fluctuates from year to year or quarter to quarter does not violate TABOR. Upon a statutory or regulatory imposed change to an existing tax rate that is not the result of a change or increase in the tax schedule rate, but required as with the severance tax, affirmative

action by the Department falls under TABOR. The Department is proposing to change the existing tax rate. Nowhere within the statute or the regulation is the Department authorized to retroactively seek past coal severance tax increases. Any proposal to do so is a change in the method of computation of the severance tax and subject to the provisions of TABOR.

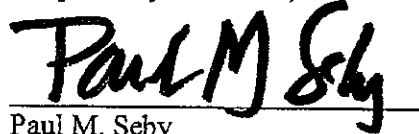
In any event, opinions issued by the Attorney General are important, but not controlling. Any reviewing court will conduct an independent analysis of the law when resolving an issue of statutory construction. See *Colorado Common Cause v. Meyer*, 785 P.2d 153, 159 (Colo. 1988), and *Colonial Bank v. Colorado Financial Services Board*, 961 P.2d 579, 584 (Colo. Ct. App. 1998). An opinion of an Attorney General cannot bind the courts or administrative agency officials and therefore should not be accepted as authoritative in interpreting state law. *Planned Parenthood of the Rocky Mountains v. Governor Owens et al.*, 287 F.3d 910, 926 (10th Cir. 2002) citing *Stenberg, Attorney General of Nebraska v. Leroy Carhart*, 530 U.S. 914, 940-941 (2000).

Attorney General Opinion No. 93-3 cannot credibly be read so broadly as to allow the Department under TABOR to increase tax rates on a quarterly or yearly basis. The facts underlying the circumstances assessed in Opinion No. 93-3 were based upon changes in applied tax rate which as a result of actions taken by the employer, not as a result of a changes in the tax rate by the state or agency. What is not permitted under TABOR is the government seeking to increase the rate of taxation without the voters' approval. The principal purpose of TABOR "is to require that the voters decide for themselves the necessity of imposing new tax burdens." *Property Tax Adjustment Specialists, Inc. v. Mesa County Board of Commissioners*, 956 P.2d 1277, 1280 (Colo. Ct. App. 1998). Additionally, "the preferred interpretation of [TABOR] shall reasonably restrain most the growth of government." *Bickel v. City of Boulder*, 885 P.2d 215, 229 (Colo. 1994). Surely any fair reading of TABOR would not support the assertion that TABOR allows for the unfettered fluctuation in tax rates without approval by the voters, given that is precisely what the amendment was designed to prohibit.

IX. CONCLUSION

For the reasons stated herein, CMA respectfully requests the Department to formally withdraw the Proposed Rulemaking. CMA believes that these detailed comments provide the Department with all needed bases to promptly take such a necessary action.

Respectfully submitted,

A handwritten signature in black ink that reads "Paul M. Seby". The signature is written in a cursive, slightly slanted style. Below the signature is a horizontal line.

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November 17, 2006

cc: M. Michael Cooke, Executive Director
Colorado Department of Revenue

John Suthers
Attorney General

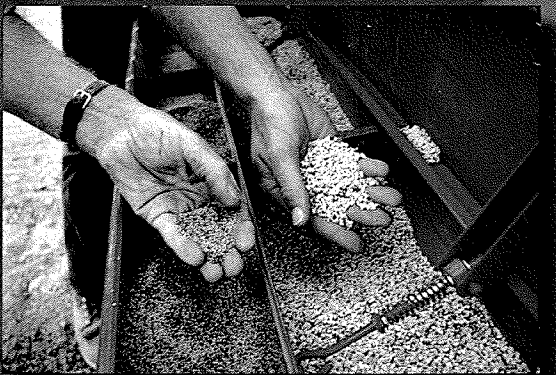
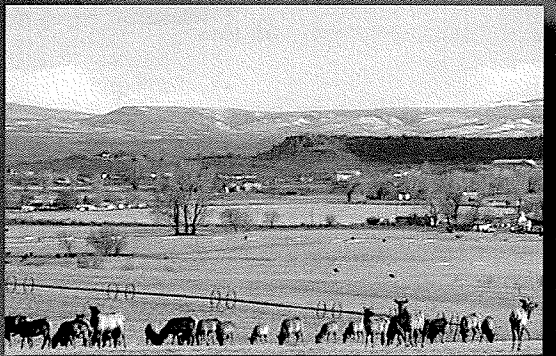
2006 Coal Production & Employment

presented by the
Colorado Mining Association

Clean, Abundant
and Affordable,
Colorado Coal Keeps
the Lights Shining!



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Denver, CO 80202
303/575-9199 Fax: 303/575-9194
www.coloradominig.org
colomine@coloradominig.org



Colorado: A Clean Coal Fueled Economy

Total Coal Produced	36,012,756 Tons
Total Coal Sold In State	11,753,424 Tons
Total Coal Sold Out of State	23,416,512 Tons
Number of Employees	2,246
Total Payroll & Benefits	\$210,220,372
Average Pay & Benefits per Employee	\$93,598

Property Taxes	\$10,275,856
Severance & Sales Taxes	\$ 9,189,160
Black Lung Taxes	\$28,394,385
Abandoned Mine Land Fees	\$ 6,890,083
Federal/State Royalties	\$64,447,102
Total Taxes and Payroll	\$329,416,958
Royalties Paid to Private Landowners	\$571,355

Fed taxes

1/2 State

Total Sales Value of Production	\$883,980,199
---------------------------------	---------------

Colorado coal producers purchased over \$293 million in services and supplies during 2006.

Coal severance taxes contribute millions of dollars for local/state governments.

More than half of Colorado's share of federal mineral royalties (coal, oil and gas) is paid to the state school fund and local school districts.

Coal, which is high in BTU or energy content and low in sulfur, accounts for 72% of Colorado's electricity needs.

Coal is the state's most abundant and lowest cost electricity fuel. At current production rates, there is enough coal to power Colorado for 250 years.

27% of the world's coal is located in the United States.


Photos: 1) Electricity from coal lights the Denver night skyline (courtesy Ted Orf). 2) Mule deer graze on reclaimed lands at New Horizon Mine in Nucla (courtesy Western Fuels Association). 3) Antelope graze on reclaimed land with dragline in the background (courtesy Trapper). 4) A variety of native seed mixes are used in reclamation. 5) Wildflowers bloom on reclaimed lands.

Source: Colorado Mining Association Survey of Coal Producers (2006)

Colorado's Minerals & Their Uses




COAL – Our Most Abundant Energy Fuel Lights the Way!

 Coal is the most widely used, inexpensive source of electricity. Low in sulfur, mercury and ash, clean Colorado coal is shipped to utilities throughout the U.S.



GOLD – Not Just for Jewelry

 Gold is used in dentistry and medicine, medallions and coins, scientific and electronic instruments and computers. Gold donated by Colorado Mining Association members was twice used to gild the Capitol dome, once in 1908 and again in 1950.




GYPSUM – Wallboard

The Eagle Gypsum Mine located in Gypsum, Colorado produced approximately 635,000 tons of gypsum ore in 2005. Gypsum is processed and used as prefabricated wallboard or as industrial building plaster, as well as in cement manufacturing.




LIMESTONE & MARBLE –
Sidewalks & Monuments

 Limestone is used as building stone and as a source of lime. When crystallized by heat and pressure, it becomes marble. Colorado marble was used in the construction of our national monuments, including the Tomb of the Unknowns and the Lincoln Memorial.




MOLYBDENUM – Automobiles

 Molybdenum is used in alloy steels to make automotive parts, construction equipment, gas transmission pipes, stainless steel, tool steels, cast iron, super alloys, chemicals and lubricants. Colorado molybdenum is used in the construction of automobile safety airbags and as an agent for removing sulfur from crude oil.



SILVER – The Multi-Purpose Metal

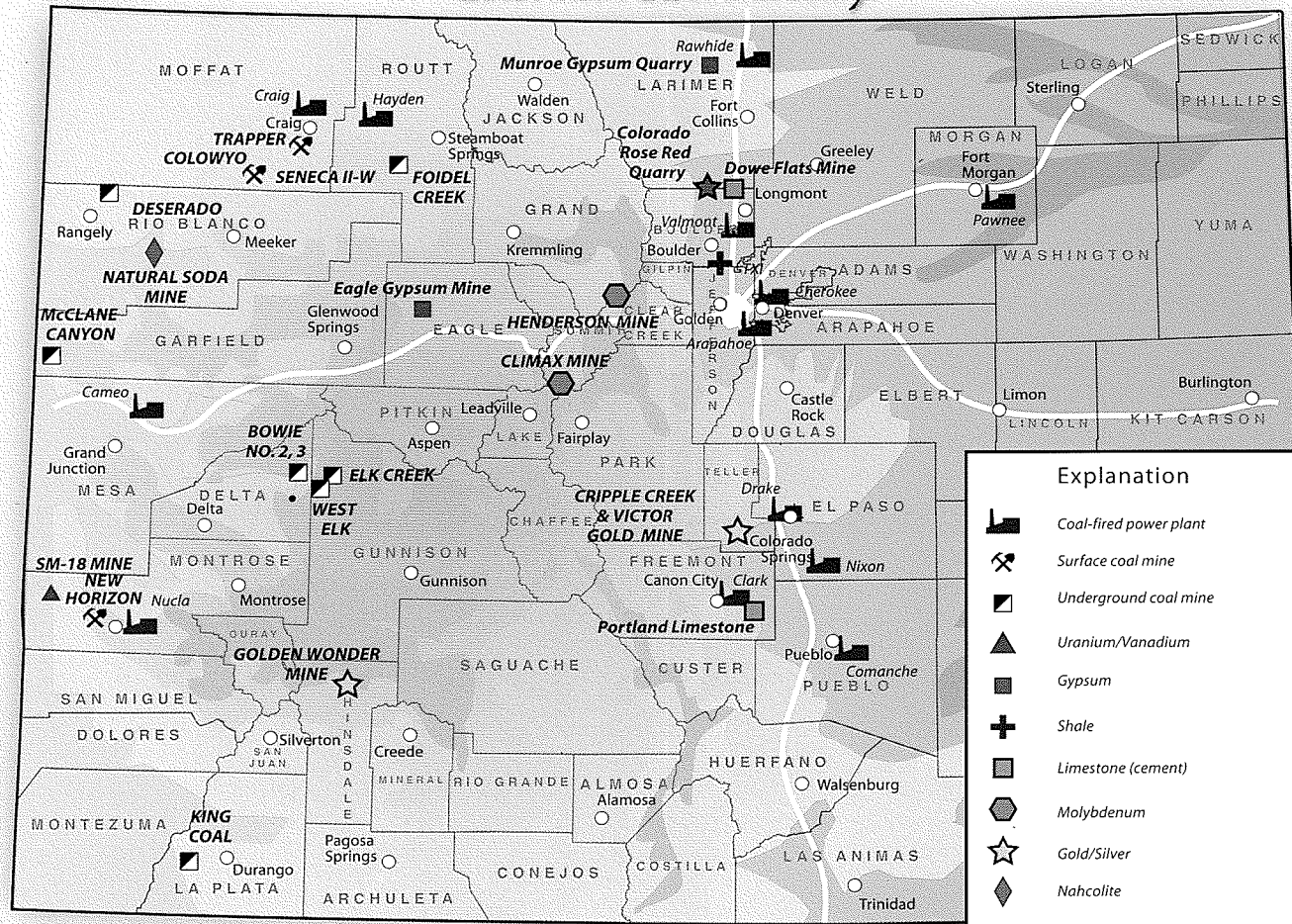


Silver is used in photography, chemistry, jewelry, electronics, water distillation, dental, medical, and scientific equipment and to make mirrors, silver plating, and table cutlery.

Mineral photos courtesy of Mineral Information Institute, 2005.

Mining

Colorado's First Industry



Artist rendering - not topographically accurate

Colorado Mineral Production Rankings

1st in U.S. Molybdenum Production

The Henderson Mine in Empire (operated By Climax Molybdenum Company - Phelps Dodge) is the world's largest primary producer of molybdenum, mining 32 million pounds in 2005.



3rd in Mineral Royalty Receipts

In 2005, the state of Colorado received \$105 million in coal, other mineral, oil and gas production royalties, half of which are used to fund public schools. Mineral severance taxes support local governments and important state programs, such as geologic hazard detection and avalanche prediction and prevention.

4th in U.S. for Gold Production

The Cripple Creek & Victor Gold Mining Company operates the state's largest gold mine, which produced more than 329,000 ounces of gold in 2005.

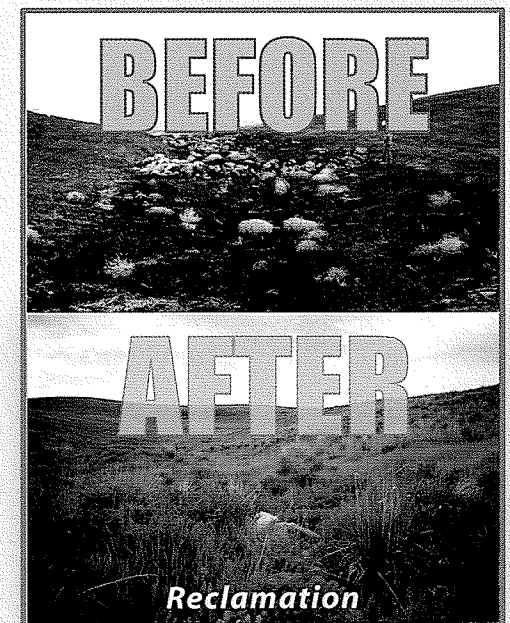
**7th in U.S for Coal Production/
4th in Underground Coal Mining**

Colorado is ranked 7th among the states in coal production. Colorado's coal is the fuel of choice by utilities throughout the U.S. Coal meets 72% of Colorado's electricity needs. Colorado ranks 4th among underground coal producing states.

Environmental Stewardship

Modern mining activity affects less than 1% of the land surface in Colorado, and mining companies spend millions of dollars each year to reclaim mine land and protect the environment.

The Colorado Mining Association launched the first Pollution Prevention Program for the mining industry and received a Friend of the EPA Award.



Photos courtesy of Trapper Mine.

Did you know...

Mining is crucial to the tools of communication used in the 21st century – your telephone consists of at least 42 different minerals; there are at least 29 minerals in a computer; and a television includes 35 minerals.

The Colorado Mining Association

Since 1876

Founded in 1876, the same year Colorado became a state, the Colorado Mining Association (CMA) is the oldest professional mining industry trade association in the United States. CMA's 650 members include the producers of coal, metals, agricultural and industrial minerals throughout Colorado and the west; as well as individuals and companies providing equipment, supplies and other services to the mining industry.

\$2.3 Billion in Sales \$8 Billion in Value for Colorado

Colorado's mining industry generates over \$2.3 billion in sales annually, and over \$8 billion in total economic value.

Commodity	Production Value (millions)
Coal	\$850
Gold	\$145
Silver	
Gypsum	\$91
Molybdenum	\$800
Sand/Gravel	\$328
Other Minerals*	\$110

*Includes uranium, vanadium, cement, soda ash, sodium bicarbonate, industrial sand, lime, dimension stone, common clay, gemstones, and helium.

Source: Colorado Geological Survey, Colorado Mineral and Energy Industry Activities Report and CMA Annual Survey of Coal and Mineral Producers, 2005.

Arranging a Tour

Some mining operations are open for public tours by appointment only. Please contact the mine in advance of your visit. Keep in mind that some operations are located several hours drive from major metropolitan areas, so plan accordingly. Contact the mines below for more information:

Trapper Mining Inc.

Trapper Mine - Surface Coal Mine
Craig (Moffat County)
Phone: 970/826-6121

Cripple Creek & Victor Gold Mining Company

Cresson Mine - Surface Gold Mine
Victor (Teller County)
Phone: 719/689-4044

Rio Tinto Energy America

Colowyo Mine - Surface Coal Mine
Meeker (Moffat County)
Phone: 970/824-1500

Western Fuels Colorado

New Horizon Mine - Surface Coal Mine
Nucla (Montrose County)
Phone: 970/864-2265



216 16th Street, Suite 1250
Denver, Colorado 80202
Phone: 303/575-9199
Fax: 303/575-9194

e-mail: colomine@coloradomining.org
web: www.coloradomining.org

For additional information about mining, please consult the following web sites:

National Mining Association - www.nma.org
Mineral Information Institute - www.mii.org
Colorado Geological Survey - <http://geosurvey.state.co.us>
Colorado Division of Minerals & Geology - <http://mining.state.co.us>

K-12 teachers, to learn more about mining, The Colorado Mining Association Education Foundation sponsors a summer training program for credit. Consult the website for more details: http://www.mines.edu/outreach/cont_ed/total.htm

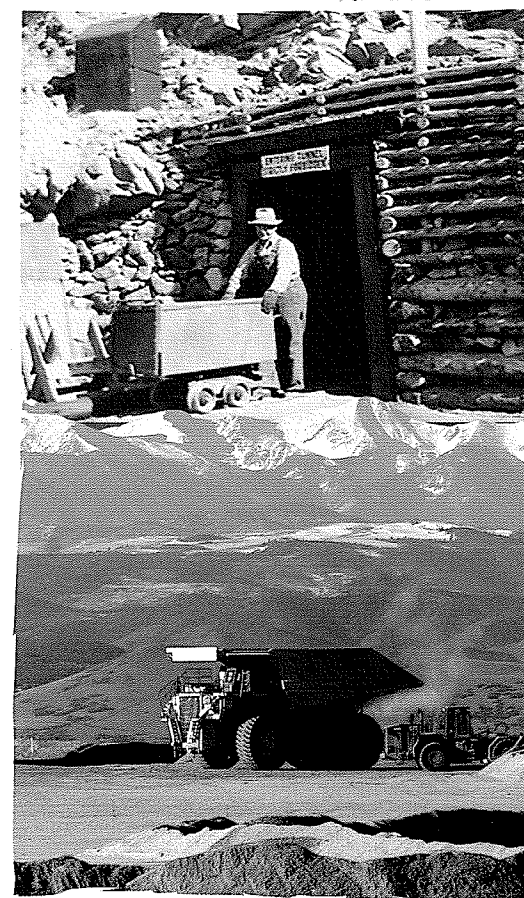
Cover photo courtesy of Anglo Gold Ashanti North America, 2005.
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Mining

Colorado's First Industry

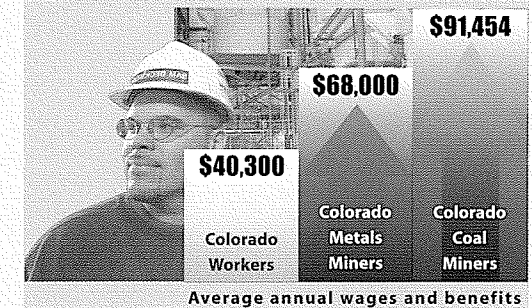
Since 1859



Providing 10,000 Jobs for Colorado

The mining industry employs 4,908 workers directly and generates 5,162 jobs in mining support industries such as engineering, consulting, finance and transportation, geotechnical and utility services. Miners are among the highest paid industrial workers in Colorado.

Miners Earn Top Wages

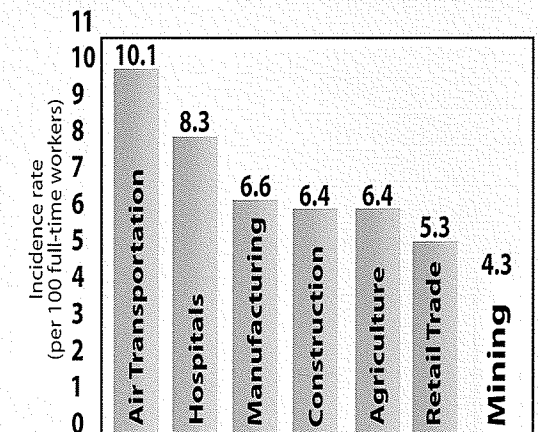


Source: Colorado Mining Association Survey of Coal and Mineral Producers and Colorado Department of Labor and Employment

One of the Safest Industries

Mining is recognized as one of the safest major U.S. industries.

Workplace Injuries & Illnesses in 2004



Source: "Workplace Injuries and Illnesses in 2000," Bureau of Labor Statistics, www.bls.gov

Improvements to the Severance Tax and Federal Mineral Lease Statutes

Objectives:

- Conduct a detailed discussion of options for the direct distribution statutes.**
- Provide a handout of possible improvements to the Colorado severance tax and federal mineral lease allocation statutes.**

Now it is time to work on solutions.

The core task of the Interim Committee is to come up with improved statutory language.

Therefore, the core task of the Working Group is to develop statutory language options and recommendations.

The details of statutory language are important but tedious.

Therefore, we offer the Working Group a handout of the detailed statutory change proposals for homework in preparation for the next meeting.

One area deserves more discussion today:

The possibility of using other metrics to measure impact and compute the direct distribution payments to local governments.

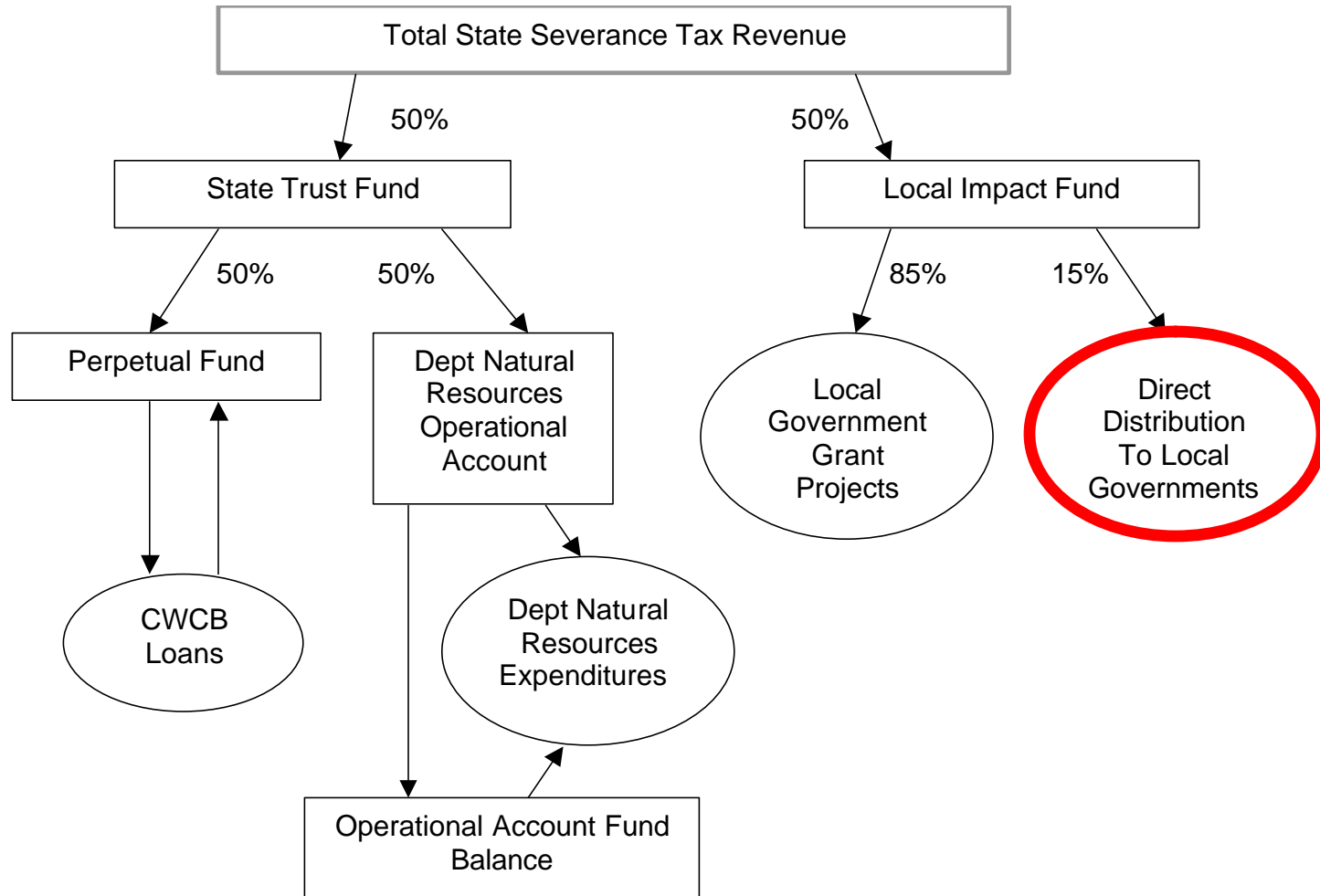
Metrics for the Direct Distributions

- 1) are payments to local governments
- 2) for the impacts of mineral and energy development.
- 3) made once each year
- 4) on the basis of a data driven formula calculation.

The current direct distribution on the basis of the Employee residence Report (ERR) has just completed another cycle.

Here are a few charts of the latest data for 2007.

A graphical representation of the state distribution of severance tax revenue shows the part distributed directly to local governments on the basis of the reported residence of production-related employees of severance taxpayers.



Federal mineral lease revenues to the state are distributed in a complex “cascade” formula set in state statute, which also has a direct distribution component.

FEDERAL MINERAL LEASING ACT

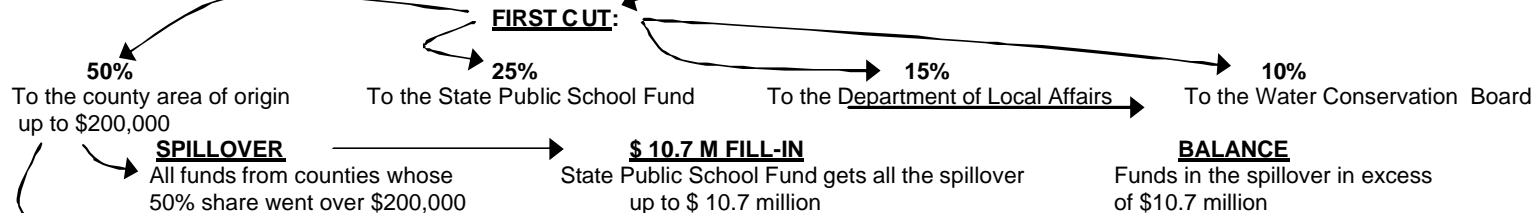
Sends revenue from the Naval Oil Shale Reserve to a special set aside in the US. Treasury
Returns 50% of rentals and royalties from federal lands in the state of origin.

- Directs that such funds be used by the states for planning, maintenance of public facilities and services in areas of the state Socially and economically impacted by mineral development.

COLORADO MINERAL LEASING FUND

- Colorado statute (CRS 34-63-102) directs that in the distribution of these funds priority shall be given to school districts and political sub - divisions socially or economically impacted by the development or construction and processing of the federal minerals.
- Distributes oil shale lease revenue to a trust fund in the legislature,
- Distributes all other amounts originating in each county as reported by the Federal government under the following "cascade" type of formula:

OIL SHALE TRUST FUND



SECOND CUT
All county areas who contributes to the SPILLOVER gets what remains of their 50% in the BALANCE up to a total limit of \$1.2 million per county area. These funds are distributed to counties school districts and towns
As follows

SCHOOL DISTRICTS

get at least 25% of each county's total distribution

TOWNS

Get at least 37.5% of each county area total distribution above \$250,000

COUNTY

Gets the residual

OVERFLOW
All funds from counties whose 50% share went over \$ 1,200,000

THE OVERFLOW SPLIT

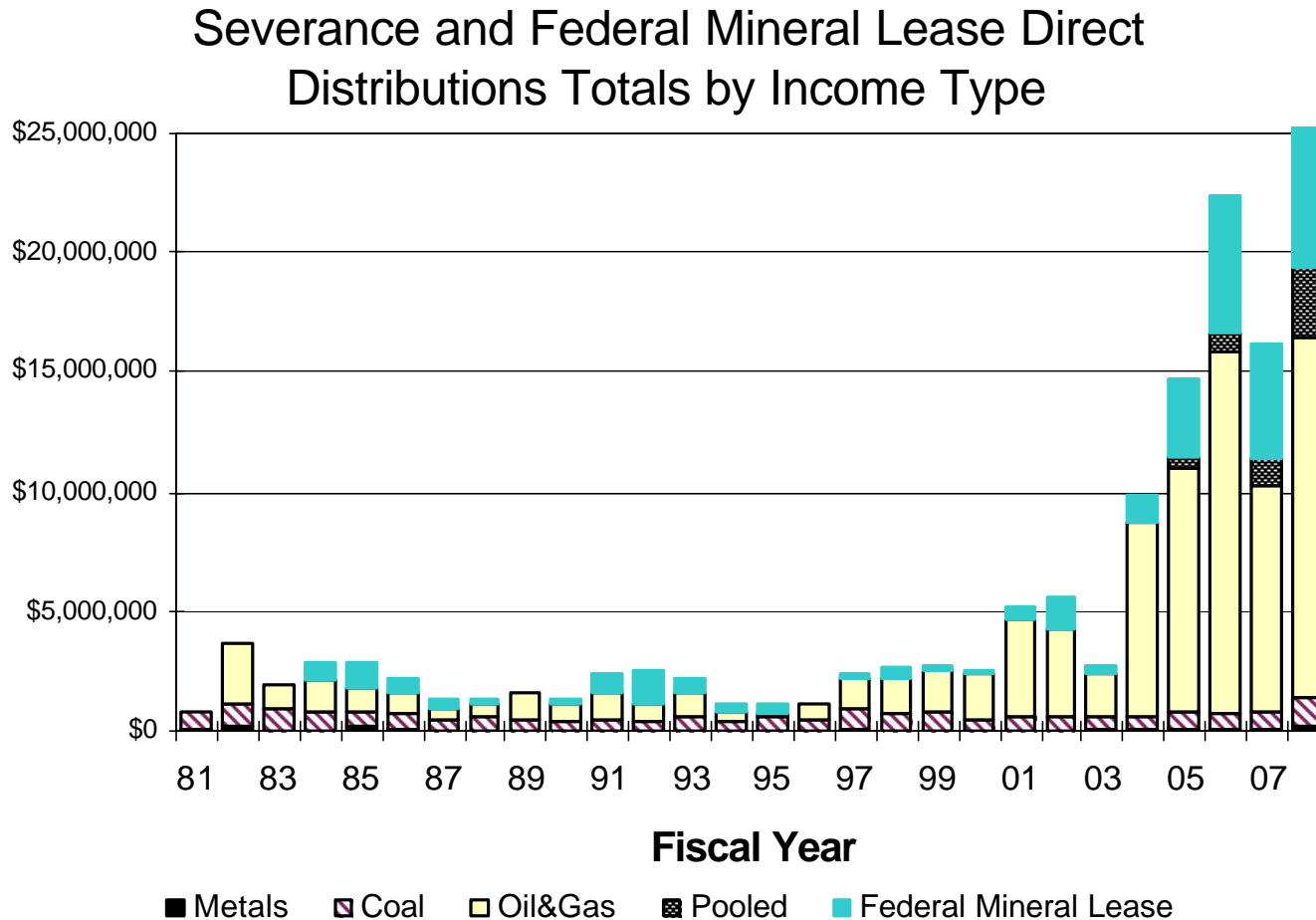
50% of the overflow goes to the State Public School Fund

50% of the overflow goes to the Department of Local Affairs

DIRECT DISTRIBUTION

25% of the DLA 50% overflow is distributed to cities and counties on the basis of employee residence reports.

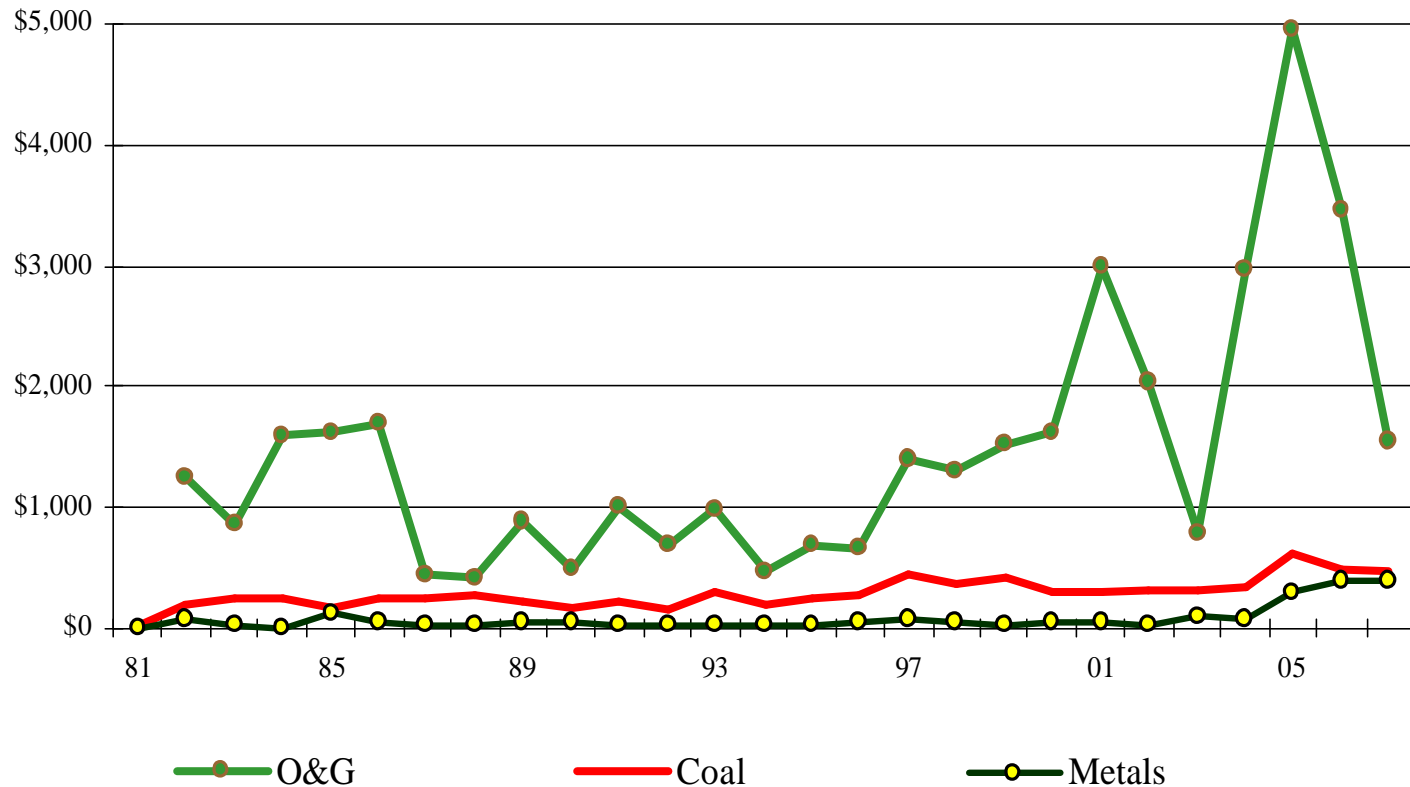
The mineral impact direct distribution amounts have ranged widely, and we forecast 2008 with the 30% severance share directed by Hb07-1139



The payment per reported employee has varied widely since 1981

SEVERANCE TAX DIRECT DISTRIBUTION

Payment per Employee by Sector



The existing Employee Residence Report system results for 2006 provides a baseline against which we can compare alternatives

Existing Mineral Type ERR Index											
Employees Reported						Employees Reported					
Oil&Gas	Coal	Metals	Direct			Oil&Gas	Coal	Metals	Direct		
CY2006	CY2006	CY2006	Distribution	County		CY2006	CY2006	CY2006	Distribution	County	
Payment per Employee				Payments	Rank					(\$K)	Rank
\$3,443.74	\$481.04	\$402.93		(\$K)		TOTAL	4552	1788	397	\$16,696	
Adams	78	-	4	\$270	10	Kit Carson	5	0	0	\$17	32
Alamosa	-	-	-	\$0	58	Lake	1	0	5	\$5	49
Arapahoe	28	-	3	\$98	17	La Plata	165	15	0	\$575	6
Archuleta	4	-	-	\$14	39	Larimer	46	0	1	\$159	13
Baca	3	-	-	\$10	42	Las Animas	251	0	0	\$864	5
Bent	2	-	-	\$7	48	Lincoln	4	0	0	\$14	39
Boulder	17	-	3	\$60	24	Logan	56	0	0	\$193	11
Broomfield	4	-	2	\$15	37	Mesa	1611	62	1	\$5,578	1
Chaffee	2	-	2	\$8	45	Mineral	0	0	0	\$0	58
Cheyenne	28	-	-	\$96	19	Moffat	44	519	0	\$401	8
Clear Creek	-	-	41	\$17	35	Montezuma	28	11	0	\$102	16
Conejos	1	-	-	\$3	53	Montrose	14	70	0	\$82	20
Costilla	-	-	1	\$0	57	Morgan	56	0	0	\$193	11
Crowley	1	-	1	\$4	51	Otero	1	0	0	\$3	53
Custer	-	-	-	\$0	58	Ouray	1	0	1	\$4	51
Delta	37	811	-	\$518	7	Park	0	0	12	\$5	50
Denver	31	-	2	\$108	15	Phillips	0	0	0	\$0	58
Dolores	13	-	-	\$45	27	Pitkin	2	0	1	\$7	46
Douglas	14	-	3	\$49	26	Prowers	7	0	0	\$24	29
Eagle	5	-	-	\$17	32	Pueblo	6	0	8	\$24	30
Elbert	4	-	1	\$14	38	Rio Blanco	262	113	26	\$967	4
El Paso	17	1	14	\$65	23	Rio Grande	3	0	1	\$11	41
Fremont	14	-	73	\$78	21	Routt	5	165	1	\$97	18
Garfield	1,091	5	8	\$3,763	2	Saguache	3	0	0	\$10	42
Gilpin	-	-	-	\$0	58	San Juan	0	0	0	\$0	58
Grand	-	-	18	\$7	47	San Miguel	0	1	0	\$0	56
Gunnison	1	12	-	\$9	44	Sedgwick	0	0	0	\$0	58
Hinsdale	-	-	5	\$2	55	Summit	4	0	3	\$15	36
Huerfano	19	-	-	\$65	22	Teller	1	0	117	\$51	25
Jackson	5	1	-	\$18	31	Washington	7	1	0	\$25	28
Jefferson	38	-	36	\$145	14	Weld	408	1	3	\$1,407	3
Kiowa	5	-	-	\$17	32	Yuma	99	0	0	\$341	9

Challenging problems have arisen with the ERR system:

- It is hard to determine which producers must make a report. For instance, should **sub-contractors** make reports?
- Contractors who work for multiple producers create a significant problem with **double counting**.
- It is hard to determine which employees should be reported. For instance, what **job titles** should be counted?
- It is difficult to determine the specific local government that should receive the payment. Each employee may be “claimed” by a **county or a municipality**, but not both.

Any alternative metric will have similar difficulties

Communities have identified problems with the current Employee Reported Residence (ERR) Metric

The ERR metric does not cover the whole range of local government impacts in the **life cycle of mineral projects from speculative planning through heavy impacts and on to the post project transitions.**

A single year ERR metric does not capture challenges to local governments that come with the high **rates of change in the mineral sector such as from commodity price cycles and speculative mineral projects.**

The ERR metric of mineral activity costs does not capture the **benefit of mineral activity that offset costs in many communities.**

Any new metric on which to distribute these funds must consider four criteria:

- Revenue is provided **when** the local government need financial impact assistance.**
- Revenue is provided **where** local government fiscal impacts occur.**
- **Reliable** over the long term.**
- **Ease** of administration**

We offer here five alternative direct distribution metrics:

- (A) - Use existing ERR but pay all employees equally rather than split by mineral type.**
- (B) - Mineral activity measures**
- (C) - Local government change measures**
- (D) –The ratio of costs over revenues**
- (E) - Multiple metric pots**

**(A) - With a single value per reported employee
the coal and metals communities get additional funds**

	Single Pay Rate ERR						Total	Hypothtical	Current	
	Total	Hypothtical	Current				Employees	Direct	Direct	
	Employees	Direct	Direct				Reported	Distribution	Distribution	
	Reported	Distribution	Distribution	County				Payments	Payments	County
		Payments	Payments	Rank				(\$K)	(\$K)	Rank
TOTAL	6737	\$16,696	\$16,696							
Adams	82	\$203	\$270	14	Kit Carson	5	\$12	\$17	39	
Alamosa	-	\$0	\$0	58	Lake	6	\$15	\$5	36	
Arapahoe	31	\$77	\$98	23	La Plata	180	\$446	\$575	8	
Archuleta	4	\$10	\$14	44	Larimer	47	\$116	\$159	18	
Baca	3	\$7	\$10	48	Las Animas	251	\$622	\$864	7	
Bent	2	\$5	\$7	51	Lincoln	4	\$10	\$14	44	
Boulder	20	\$50	\$60	25	Logan	56	\$139	\$193	16	
Broomfield	6	\$15	\$15	36	Mesa	1674	\$4,149	\$5,578	1	
Chaffee	4	\$10	\$8	44	Mineral	0	\$0	\$0	58	
Cheyenne	28	\$69	\$96	24	Moffat	563	\$1,395	\$401	4	
Clear Creek	41	\$102	\$17	19	Montezuma	39	\$97	\$102	20	
Conejos	1	\$2	\$3	54	Montrose	84	\$208	\$82	13	
Costilla	1	\$2	\$0	54	Morgan	56	\$139	\$193	16	
Crowley	2	\$5	\$4	51	Otero	1	\$2	\$3	54	
Custer	-	\$0	\$0	58	Ouray	2	\$5	\$4	51	
Delta	848	\$2,102	\$518	3	Park	12	\$30	\$5	32	
Denver	33	\$82	\$108	21	Phillips	0	\$0	\$0	58	
Dolores	13	\$32	\$45	30	Pitkin	3	\$7	\$7	48	
Douglas	17	\$42	\$49	28	Prowers	7	\$17	\$24	34	
Eagle	5	\$12	\$17	39	Pueblo	14	\$35	\$24	29	
Elbert	5	\$12	\$14	39	Rio Blanco	401	\$994	\$967	6	
El Paso	32	\$79	\$65	22	Rio Grande	4	\$10	\$11	44	
Fremont	87	\$216	\$78	12	Routt	171	\$424	\$97	9	
Garfield	1,104	\$2,736	\$3,763	2	Saguache	3	\$7	\$10	48	
Gilpin	-	\$0	\$0	58	San Juan	0	\$0	\$0	58	
Grand	18	\$45	\$7	27	San Miguel	1	\$2	\$0	54	
Gunnison	13	\$32	\$9	30	Sedgwick	0	\$0	\$0	58	
Hinsdale	5	\$12	\$2	39	Summit	7	\$17	\$15	34	
Huerfano	19	\$47	\$65	26	Teller	118	\$292	\$51	10	
Jackson	6	\$15	\$18	36	Washington	8	\$20	\$25	33	
Jefferson	74	\$183	\$145	15	Weld	412	\$1,021	\$1,407	5	
Kiowa	5	\$12	\$17	39	Yuma	99	\$245	\$341	11	

(B) - Mineral activity measures cover the full cycle of production, from permitting through production, transportation and conversion of oil, gas and minerals.

These could include railroad, powerplant and pipeline activities associated with mineral production.

Data is only available for whole counties. Some additional metric, such as population, would be needed to make distributions to towns.

A mineral activity index captures all sorts of measures of permitting, production and processing of minerals. An additional calculation using, for example, population estimates, would be needed to calculate payments to towns.

	Mineral Activity Index		Coal	Metals	State	Combined	Hypothetical				Oil & Gas	Oil&Gas	Coal	Metals	State	Combined	Hypothetical	
	Oil & Gas	Oil&Gas	CY2006	Metals	Assessed	Mineral	Direct				Drilling	CY2006	CY2006	CY2006	Assessed	Mineral	Direct	
	Permits	BCF	tons per	\$M	Powerplants	Activity	Distribution	County			Permits	Billions of	Million	\$M	Railroads	Activity	Distribution	County
	Approved	Equivalent	Year		Pipelines	Index	Payments	Rank			Approved	Cubic Feet	tons per		Powerplants	Index	Payments	Rank
Totals	5,904	1,566	35	\$1,174	\$2,693		(\$K)					Equivalent	Year				(\$K)	
Adams	37	9	-	-	226	567	\$382	13	Kit Carson	4	0	-	-	-	14	37	\$25	40
Alamosa	-	-	-	-	8	18	\$12	52	Lake	-	-	-	0	-	8	19	\$12	50
Arapahoe	11	1	-	-	125	288	\$194	18	La Plata	235	439	0	-	-	46	2,073	\$1,396	3
Archuleta	14	4	-	-	6	41	\$28	37	Larimer	-	1	-	-	-	44	99	\$67	31
Baca	2	3	-	-	22	59	\$40	35	Las Animas	500	101	-	-	-	30	945	\$636	10
Bent	8	0	-	-	13	39	\$26	38	Lincoln	1	1	-	-	-	16	39	\$26	39
Boulder	21	3	-	0.0	97	246	\$166	20	Logan	17	2	-	-	-	39	108	\$73	30
Broomfield	1	1	-	-	12	30	\$20	43	Mesa	265	15	-	-	-	67	470	\$316	14
Chaffee	-	-	-	-	11	24	\$16	46	Mineral	-	-	-	-	-	1	1	\$1	64
Cheyenne	21	17	-	-	10	109	\$73	29	Moffat	120	21	8	-	-	158	1,945	\$1,310	4
Clear Creek	-	-	-	782.8	13	812	\$547	11	Montezuma	5	169	-	-	-	28	705	\$475	12
Conejos	-	-	-	-	2	5	\$3	58	Montrose	1	-	0	0	-	40	155	\$105	25
Costilla	-	-	-	-	1	2	\$2	63	Morgan	3	1	-	-	-	135	302	\$203	17
Crowley	-	-	-	-	2	4	\$3	60	Otero	-	-	-	-	-	14	31	\$21	42
Custer	-	-	-	-	2	3	\$2	61	Ouray	-	-	-	-	-	4	9	\$6	55
Delta	9	0	7.0	-	17	1,205	\$811	7	Park	-	-	-	0	-	8	18	\$12	51
Denver	19	0	-	-	201	461	\$311	15	Phillips	12	1	-	-	-	2	19	\$13	49
Dolores	6	13	-	-	9	75	\$51	33	Pitkin	-	-	-	-	-	10	21	\$14	48
Douglas	-	-	-	-	71	157	\$106	24	Prowers	7	1	-	-	-	45	110	\$74	28
Eagle	-	-	-	-	37	81	\$55	32	Pueblo	-	-	-	-	-	89	196	\$132	23
Elbert	4	0	-	-	10	28	\$19	44	Rio Blanco	360	78	2	2	-	30	1,007	\$678	8
El Paso	-	-	-	-	114	249	\$168	19	Rio Grande	-	-	-	-	-	6	14	\$9	54
Fremont	2	0	-	-	13	31	\$21	41	Routt	9	1	9	-	-	74	1,605	\$1,081	5
Garfield	1,845	346	0.3	-	44	3,291	\$2,217	2	Saguache	-	-	-	-	-	4	8	\$6	57
Gilpin	-	-	-	-	4	9	\$6	56	San Juan	-	-	-	-	-	1	3	\$2	62
Grand	-	-	-	199.5	19	241	\$162	21	San Miguel	35	22	-	-	-	10	140	\$94	26
Gunnison	19	1	8.6	-	6	1,468	\$989	6	Sedgwick	7	0	-	-	-	9	27	\$18	45
Hinsdale	-	-	-	3.3	1	5	\$3	59	Summit	-	-	-	-	-	22	48	\$32	36
Huerfano	-	14	-	-	8	70	\$47	34	Teller	-	-	-	185	-	10	207	\$139	22
Jackson	8	1	-	-	1	16	\$11	53	Washington	69	6	-	-	-	18	133	\$89	27
Jefferson	1	-	-	-	167	368	\$248	16	Weld	1,418	255	-	-	-	417	3,292	\$2,218	1
Kiowa	11	2	-	-	2	21	\$14	47	Yuma	797	37	-	-	-	19	978	\$659	9

Combined index weights each factor so that sum of weighted factors are equal.

**(C) - Change measures
attempt to direct financial support to those
local governments who are experiencing
disruption of their local government finances.**

Change metrics focus on areas where the local governments are experiencing rapid adjustments due to mineral production.

	Rate of Change Index				Hypothical						
	Change in	Percent	Change		Direct				Change		Hypothical
	Mineral AV	Assed Value	Index		Distribution		Change in	Percent	Index		Direct
	from prior Yr	from Mineral		County	Payments		Mineral AV	Assed Value		County	Distribution
	AV CY2006	AV CY2006		Rank	(\$K)		from prior Yr	from Mineral		Rank	Payments
Total	32%	18%			\$16,696		0.3	0.3			(\$K)
Adams	10%	7%	0.7	31	\$28.8	Kit Carson	2%	17%	0.3	40	\$11.9
Alamosa	4%	7%	0.3	38	\$12.7	Lake	1%	20%	0.2	44	\$9.3
Arapahoe	11%	2%	0.2	45	\$8.4	La Plata	30%	68%	20.3	7	\$841.1
Archuleta	47%	7%	3.3	26	\$135.1	Larimer	12%	1%	0.2	47	\$7.5
Baca	8%	50%	3.9	22	\$161.9	Las Animas	43%	82%	35.4	2	\$1,466.5
Bent	11%	30%	3.4	25	\$142.1	Lincoln	5%	30%	1.4	29	\$56.9
Boulder	16%	2%	0.4	34	\$15.4	Logan	22%	25%	5.6	18	\$232.9
Broomfield	17%	2%	0.3	35	\$14.5	Mesa	39%	10%	3.9	23	\$159.4
Chaffee	8%	4%	0.3	36	\$13.4	Mineral	2%	3%	0.1	61	\$2.4
Cheyenne	23%	79%	18.5	10	\$764.1	Moffat	7%	79%	5.6	19	\$230.0
Clear Creek	80%	42%	33.8	3	\$1,398.9	Montezuma	47%	47%	22.2	6	\$917.9
Conejos	0%	5%	0.0	64	\$0.4	Montrose	-2%	10%	0.2	46	\$8.1
Costilla	-2%	2%	0.0	63	\$1.5	Morgan	-5%	38%	2.0	28	\$81.1
Crowley	-6%	6%	0.3	37	\$13.4	Otero	-1%	13%	0.1	55	\$4.3
Custer	2%	2%	0.0	62	\$1.8	Ouray	15%	3%	0.4	32	\$18.5
Delta	32%	21%	6.8	16	\$280.6	Park	7%	2%	0.2	49	\$6.7
Denver	7%	2%	0.1	50	\$6.0	Phillips	180%	11%	20.3	8	\$838.7
Dolores	38%	49%	18.5	9	\$765.9	Pitkin	16%	1%	0.1	58	\$3.3
Douglas	14%	2%	0.3	43	\$10.5	Prowers	10%	40%	3.8	24	\$159.3
Eagle	8%	2%	0.1	51	\$5.5	Pueblo	-1%	8%	0.1	56	\$4.3
Elbert	6%	5%	0.3	41	\$11.7	Rio Blanco	36%	85%	30.8	4	\$1,274.4
El Paso	6%	2%	0.1	52	\$5.3	Rio Grande	2%	5%	0.1	59	\$3.1
Fremont	1%	5%	0.1	60	\$2.5	Routt	23%	14%	3.1	27	\$130.4
Garfield	74%	70%	52.2	1	\$2,159.5	Saguache	4%	8%	0.3	39	\$12.3
Gilpin	7%	1%	0.1	57	\$3.5	San Juan	3%	4%	0.1	54	\$5.0
Grand	98%	8%	7.5	14	\$311.3	San Miguel	55%	15%	8.3	13	\$344.5
Gunnison	-1%	14%	0.2	48	\$6.9	Sedgwick	24%	31%	7.2	15	\$298.6
Hinsdale	67%	7%	4.6	21	\$192.3	Summit	7%	2%	0.1	53	\$5.3
Huerfano	-33%	19%	6.3	17	\$260.4	Teller	6%	14%	0.9	30	\$36.4
Jackson	-1%	19%	0.3	42	\$10.7	Washington	28%	56%	15.7	12	\$649.7
Jefferson	16%	3%	0.4	33	\$16.9	Weld	31%	52%	16.0	11	\$660.8
Kiowa	13%	40%	5.0	20	\$206.1	Yuma	49%	61%	30.1	5	\$1,247.4

Change Index is the product of the absolute change rate and the percent Mineral AV times 100.

(D) – Revenue to Costs Ratio Index:

Mineral production areas get significant revenue.

The fundamental purpose of the employee direct distribution was to get funds to local governments where mineral impact costs arise in excess of revenues.

A metric can be calculated that indicates how much revenue is being generated from local mineral taxation per a cost index composed of reported resident employees, mining permits and other metrics.

A revenue ratio to costs metric turns up the counties where employees reside from production elsewhere

	<u>Cost to Revenue Ratio Index</u>													
	Total	All Mineral	Local	Index of		Hypothtcal			Total	All Mineral	Local	Index of		Hypothtcal
	Employees	Assessed Value	Revenue	Amount		Direct			Employees	Assessed Value	Revenue	Amount		Direct
	Reported	Revenue	per	Make up	County	Distribution			Reported	Revenue	per	Make up	County	Distribution
	CY2006	CY2006 \$M	Employee	Needed	Rank	Payments			CY2006	CY2006 \$M	Employee	Needed	Rank	Payments
Totals	6,737	\$253	\$37,577			(\$K)								(\$K)
Adams	82	\$5.1	\$61,732	-		\$0		Kit Carson	5	\$0.2	\$35,292	0.0	36	\$1
Alamosa	-	\$0.0		-		\$0		Lake	6	\$0.7	\$111,412	-		\$0
Arapahoe	31	\$0.5	\$16,454	0.7	16	\$80		La Plata	180	\$44.2	\$245,642	-		\$0
Archuleta	4	\$0.4	\$91,101	-		\$0		Larimer	47	\$0.7	\$13,912	1.1	14	\$136
Baca	3	\$0.6	\$194,016	-		\$0		Las Animas	251	\$7.4	\$29,435	2.0	10	\$250
Bent	2	\$0.1	\$72,115	-		\$0		Lincoln	4	\$0.2	\$58,725	-		\$0
Boulder	20	\$0.9	\$46,712	-		\$0		Logan	56	\$0.5	\$9,070	1.6	12	\$195
Broomfield	6	\$0.3	\$58,138	-		\$0		Mesa	1674	\$2.0	\$1,170	60.9	1	\$7,454
Chaffee	4	\$0.0	\$4,816	0.1	24	\$16		Mineral	0	\$0.0		-		\$0
Cheyenne	28	\$3.5	\$124,527	-		\$0		Moffat	563	\$7.3	\$12,981	13.8	3	\$1,694
Clear Creek	41	\$3.6	\$86,952	-		\$0		Montezuma	39	\$5.1	\$129,621	-		\$0
Conejos	1	\$0.0	\$3,458	0.0	34	\$4		Montrose	84	\$0.1	\$1,493	3.0	6	\$371
Costilla	1	\$0.0	\$1,787	0.0	32	\$4		Morgan	56	\$0.3	\$6,003	1.8	11	\$216
Crowley	2	\$0.0	\$172	0.1	30	\$9		Otero	1	\$0.0	\$2,688	0.0	33	\$4
Custer	-	\$0.0		-		\$0		Ouray	2	\$0.0	\$878	0.1	31	\$9
Delta	848	\$1.4	\$1,671	30.4	2	\$3,724		Park	12	\$0.0	\$993	0.4	18	\$54
Denver	33	\$0.1	\$2,375	1.2	13	\$142		Phillips	0	\$0.0		-		\$0
Dolores	13	\$0.4	\$29,861	0.1	29	\$12		Pitkin	3	\$0.0	\$1,816	0.1	27	\$13
Douglas	17	\$0.0	\$2,285	0.6	17	\$73		Prowers	7	\$0.2	\$22,991	0.1	28	\$12
Eagle	5	\$0.1	\$15,226	0.1	26	\$14		Pueblo	14	\$0.1	\$7,133	0.4	19	\$52
Elbert	5	\$0.2	\$38,952	-		\$0		Rio Blanco	401	\$11.8	\$29,533	3.2	5	\$395
El Paso	32	\$0.5	\$14,148	0.7	15	\$92		Rio Grande	4	\$0.0	\$3,057	0.1	23	\$17
Fremont	87	\$0.3	\$3,088	3.0	7	\$367		Routt	171	\$0.9	\$5,549	5.5	4	\$670
Garfield	1,104	\$48.7	\$44,108	-		\$0		Saguache	3	\$0.0	\$0	0.1	25	\$14
Gilpin	-	\$0.0		-		\$0		San Juan	0	\$0.0		-		\$0
Grand	18	\$0.3	\$16,973	0.4	20	\$45		San Miguel	1	\$2.6	\$2,648,842	-		\$0
Gunnison	13	\$3.4	\$259,180	-		\$0		Sedgwick	0	\$0.0		-		\$0
Hinsdale	5	\$0.0	\$9,612	0.1	22	\$17		Summit	7	\$0.0	\$1,665	0.3	21	\$31
Huerfano	19	\$1.0	\$51,013	-		\$0		Teller	118	\$2.4	\$20,164	2.1	9	\$251
Jackson	6	\$0.2	\$33,327	0.0	35	\$3		Washington	8	\$1.9	\$236,528	-		\$0
Jefferson	74	\$0.7	\$9,630	2.1	8	\$253		Weld	412	\$85.6	\$207,650	-		\$0
Kiowa	5	\$0.8	\$164,880	-		\$0		Yuma	99	\$5.9	\$59,238	-		\$0

Index is the amount of money needed to bring the county up to the state average revenue per ERR.

(E) – Last, we can review a proposal to create multiple pots for the direct distribution, each driven by a different metric.

The proposal made is to have four 25% pots distributed on the following:

- production volumes**
- active wells**
- employees resident reported**
- drilling permits**

The Separate Pots method proposed puts money into the production areas.

	Four Separate Pots Distribution				Combined								
	Physical	Active	Well	Total	Direct					Well	Total	Combined	
	Production	Wells	Drilling	ERR	Distribution			Physical	Active	Drilling	ERR	Direct	
	Index	Count	Permits	Count	Payments	County		Index	Count	Permits	Count	Distribution	County
			Approved		(\$K)	Rank				Approved		Payments	Rank
Totals	1,861	31,371	5,904	6,737	\$16,696							(\$K)	
Adams	9	940	37	82	\$222.3	11	Kit Carson	0	24	4	5	\$10.2	42
Alamosa	-	-	-	-	\$0.0	60	Lake	0	-	-	6	\$3.7	49
Arapahoe	1	176	11	31	\$52.0	27	La Plata	442	2,782.0	235.0	180	\$1,638.2	3
Archuleta	4	62	14	4	\$29.0	34	Larimer	1	205.0	-	47	\$58.5	23
Baca	3	275	2	3	\$45.5	30	Las Animas	101	2,217.0	500.0	251	\$1,030.1	7
Bent	0	35	8	2	\$12.7	39	Lincoln	1	20.0	1.0	4	\$7.0	45
Boulder	3	232	21	20	\$65.2	21	Logan	2	211.0	17.0	56	\$78.2	20
Broomfield	1	64	1	6	\$14.8	38	Mesa	15	555.0	265.0	1674	\$1,332.0	4
Chaffee	-	-	-	4	\$2.5	52	Mineral	-	-	-	0	\$0.0	60
Cheyenne	17	420	21	28	\$127.2	15	Moffat	63	510.0	120.0	563	\$642.5	8
Clear Creek	78	-	-	41	\$201.0	13	Montezuma	169	170.0	5.0	39	\$430.4	10
Conejos	-	-	-	1	\$0.6	57	Montrose	2	-	1.0	84	\$57.3	25
Costilla	-	-	-	1	\$0.6	57	Morgan	1	340.0	3.0	56	\$84.0	19
Crowley	-	-	-	2	\$1.2	56	Otero	-	-	-	1	\$0.6	57
Custer	-	-	-	-	\$0.0	60	Ouray	-	1.0	-	2	\$1.4	55
Delta	35	12	9	848	\$611.6	9	Park	0	-	-	12	\$7.5	44
Denver	0	42	19	33	\$40.2	31	Phillips	1	20.0	12.0	0	\$12.4	40
Dolores	13	36	6	13	\$46.9	29	Pitkin	-	10.0	-	3	\$3.2	50
Douglas	-	-	-	17	\$10.5	41	Prowers	1	44.0	7.0	7	\$17.3	36
Eagle	-	-	-	5	\$3.1	51	Pueblo	-	-	-	14	\$8.7	43
Elbert	0	76	4	5	\$17.0	37	Rio Blanco	87	2,590.0	360.0	401	\$1,042.2	5
El Paso	-	2	-	32	\$20.1	35	Rio Grande	-	-	-	4	\$2.5	52
Fremont	0	53	2	87	\$63.0	22	Routt	44	49.0	9.0	171	\$216.9	12
Garfield	348	3,666	1,845	1,104	\$3,256.2	2	Saguache	-	-	-	3	\$1.9	54
Gilpin	-	-	-	-	\$0.0	60	San Juan	-	-	-	0	\$0.0	60
Grand	20	-	-	18	\$55.9	26	San Miguel	22	110.0	35.0	1	\$89.7	18
Gunnison	44	20	19	13	\$122.0	16	Sedgwick	0	6.0	7.0	0	\$5.9	46
Hinsdale	0	-	-	5	\$3.8	48	Summit	-	-	-	7	\$4.3	47
Huerfano	14	105	-	19	\$57.4	24	Teller	19	-	-	118	\$114.6	17
Jackson	1	168	8	6	\$34.7	32	Washington	6	540.0	69.0	8	\$139.6	14
Jefferson	-	20	1	74	\$49.2	28	Weld	255	11,966.0	1,418.0	412	\$3,420.9	1
Kiowa	2	139	11	5	\$33.1	33	Yuma	37	2,458.0	797.0	99	\$1,034.9	6

Each pot is allocated to counties separately on the basis of its metric and then combined into the single payment total.

A comparison table shows how the various direct distribution metrics stack up with the same total amount available.

	Distributions Comparison Table (\$K)													
	Current	Single	Mineral	Mineral	Cost to	Four			Current	Single	Mineral	Mineral	Cost to	Four
	ERR	Rate	Activity	Activity	Revenue	Pots			ERR	Rate	Activity	Change	Ratio	Pots
		ERR	Index	Index	Index	Method				ERR	Index	Index	Index	Method
Totals	\$16,696	\$16,696	\$16,696	\$16,696	\$16,696	\$16,696								
Adams	\$270	\$203	\$382	\$29	\$0	\$222	Kit Carson	\$17	\$12	\$25	\$12	\$1	\$10	
Alamosa	\$0	\$0	\$12	\$13	\$0	\$0	Lake	\$5	\$15	\$12	\$9	\$0	\$4	
Arapahoe	\$98	\$77	\$194	\$8	\$80	\$52	La Plata	\$575	\$446	\$1,396	\$841	\$0	\$1,638	
Archuleta	\$14	\$10	\$28	\$135	\$0	\$29	Larimer	\$159	\$116	\$67	\$7	\$136	\$58	
Baca	\$10	\$7	\$40	\$162	\$0	\$46	Las Animas	\$864	\$622	\$636	\$1,467	\$250	\$1,030	
Bent	\$7	\$5	\$26	\$142	\$0	\$13	Lincoln	\$14	\$10	\$26	\$57	\$0	\$7	
Boulder	\$60	\$50	\$166	\$15	\$0	\$65	Logan	\$193	\$139	\$73	\$233	\$195	\$78	
Broomfield	\$15	\$15	\$20	\$14	\$0	\$15	Mesa	\$5,578	\$4,149	\$316	\$159	\$7,454	\$1,332	
Chaffee	\$8	\$10	\$16	\$13	\$16	\$2	Mineral	\$0	\$0	\$1	\$2	\$0	\$0	
Cheyenne	\$96	\$69	\$73	\$764	\$0	\$127	Moffat	\$401	\$1,395	\$1,310	\$230	\$1,694	\$643	
Clear Creek	\$17	\$102	\$547	\$1,399	\$0	\$201	Montezuma	\$102	\$97	\$475	\$918	\$0	\$430	
Conejos	\$3	\$2	\$3	\$0	\$4	\$1	Montrose	\$82	\$208	\$105	\$8	\$371	\$57	
Costilla	\$0	\$2	\$2	\$1	\$4	\$1	Morgan	\$193	\$139	\$203	\$81	\$216	\$84	
Crowley	\$4	\$5	\$3	\$13	\$9	\$1	Otero	\$3	\$2	\$21	\$4	\$4	\$1	
Custer	\$0	\$0	\$2	\$2	\$0	\$0	Ouray	\$4	\$5	\$6	\$18	\$9	\$1	
Delta	\$518	\$2,102	\$811	\$281	\$3,724	\$612	Park	\$5	\$30	\$12	\$7	\$54	\$7	
Denver	\$108	\$82	\$311	\$6	\$142	\$40	Phillips	\$0	\$0	\$13	\$839	\$0	\$12	
Dolores	\$45	\$32	\$51	\$766	\$12	\$47	Pitkin	\$7	\$7	\$14	\$3	\$13	\$3	
Douglas	\$49	\$42	\$106	\$10	\$73	\$11	Prowers	\$24	\$17	\$74	\$159	\$12	\$17	
Eagle	\$17	\$12	\$55	\$6	\$14	\$3	Pueblo	\$24	\$35	\$132	\$4	\$52	\$9	
Elbert	\$14	\$12	\$19	\$12	\$0	\$17	Rio Blanco	\$967	\$994	\$678	\$1,274	\$395	\$1,042	
El Paso	\$65	\$79	\$168	\$5	\$92	\$20	Rio Grande	\$11	\$10	\$9	\$3	\$17	\$2	
Fremont	\$78	\$216	\$21	\$3	\$367	\$63	Routt	\$97	\$424	\$1,081	\$130	\$670	\$217	
Garfield	\$3,763	\$2,736	\$2,217	\$2,159	\$0	\$3,256	Saguache	\$10	\$7	\$6	\$12	\$14	\$2	
Gilpin	\$0	\$0	\$6	\$4	\$0	\$0	San Juan	\$0	\$0	\$2	\$5	\$0	\$0	
Grand	\$7	\$45	\$162	\$311	\$45	\$56	San Miguel	\$0	\$2	\$94	\$344	\$0	\$90	
Gunnison	\$9	\$32	\$989	\$7	\$0	\$122	Sedgwick	\$0	\$0	\$18	\$299	\$0	\$6	
Hinsdale	\$2	\$12	\$3	\$192	\$17	\$4	Summit	\$15	\$17	\$32	\$5	\$31	\$4	
Huerfano	\$65	\$47	\$47	\$260	\$0	\$57	Teller	\$51	\$292	\$139	\$36	\$251	\$115	
Jackson	\$18	\$15	\$11	\$11	\$3	\$35	Washington	\$25	\$20	\$89	\$650	\$0	\$140	
Jefferson	\$145	\$183	\$248	\$17	\$253	\$49	Weld	\$1,407	\$1,021	\$2,218	\$661	\$0	\$3,421	
Kiowa	\$17	\$12	\$14	\$206	\$0	\$33	Yuma	\$341	\$245	\$659	\$1,247	\$0	\$1,035	

Statutes:

Review of Possible Statutory edits that improve the direct distributions:

A long history of changes over the years may warrant amendments in the Colorado severance tax statute and federal mineral lease distribution statutes. Below is a discussion and proposed statutory changes on a list of issues:

- (I) – CleanUp: Reviser Bill corrections in the severance and federal mineral lease distribution statutes to correct inconsistencies and oversights.
- (II) – Statutory clarification of the employee residence reporting process used to calculate the direct distribution payments to local governments.
- (III) – Statutory reconstruction of the employee residence reporting process.
- (IV) – Modification of the metrics used for direct distribution and the frequency of payments.

2007-08-14

I - CLEANUP

PROPOSED STATUTORY CORRECTIONS FOR THE REVISERS BILL TO CORRECT ERRORS IN LEGISLATION:

PROBLEM: In the modifications to the formula distribution of federal mineral lease revenues under Hb97-1123 a \$10 million threshold figure in 34-63-110(3)(b)(II) did not get amended when the same figure was amended in (3)(a), and, a reference to "payments to counties" was left in despite the fact that the distribution was now going to additional parties that are not counties.

CURRENT STATUTE:

"34-63-102(3)(a) Fifty percent of all moneys described in paragraph (a) of subsection (1) of this section shall be distributed ten working days after receipt of the last monthly payment in each quarter among those respective counties of this state from which the federal leasing money is derived in proportion to the amount of said federal leasing money derived from each of the respective counties for use by said counties for the purposes described in subsection (1) of this section and for use by municipalities and school districts within said counties as provided in paragraph (c) of this subsection (3); except that no distribution under this paragraph (a) to any single county, including the amounts distributed under paragraph (c) of this subsection (3) to municipalities and school districts located therein, shall exceed one million two hundred thousand dollars in any calendar year. Unless the balance paid to the state public school fund pursuant to subparagraph (I) of paragraph (b) of this subsection (3) exceeds **ten million seven hundred thousand dollars** in a calendar year, distribution above two hundred thousand dollars to any single county pursuant to this paragraph (a) shall not take effect during that calendar year.

(3)(b)(I) Any balance of said fifty percent remaining after payment **to the several counties as** provided in paragraph (a) of this subsection (3) shall be paid by the state treasurer, on or before the last day of December of each year, into the state public school fund and used for the support of the public schools.

(3)(b)(II) Commencing January 1, 1983, one-half of any balance of said fifty percent in excess of **ten million one hundred thousand dollars** shall be paid by the state treasurer, on or before the last day of December of each year, into the local government mineral impact fund and used in accordance with the purposes described in subsection (1) of this section."

DISCUSSION PRO/CON: 34-63-102(3)(a) is the point in the cascade formula that sets a state school fund hold harmless amount at \$10.7 million. A result of this hold harmless threshold is there is a possible "overflow" of funds that are to be allocated under (3)(b)(I) to the state school fund and under (3)(b)(II) to the Local Government Mineral Impact Fund. As stated in the current statutory wording section (3)(b)(II) is not mathematically consistent, since it allocated amounts over \$10.1 million, which do not exist. The amounts available to the state treasurer at that point in the formula are those over \$10.7 million, a lesser amount. This is just a correction of statutory error. It should be done.

RECOMMENDATION:

1) remove the words "to the several counties" in (3)(b)(I) so that the statute does not attempt to replicate the complicated results of (3)(a) but, rather, just references what ever the results are.

"(3)(b)(I) Any balance of said fifty percent remaining after payment ~~S to the several counties as~~ provided in paragraph (a) of this subsection (3) shall be paid by the state treasurer, on or before the last day of December of each year, into the state public school fund and used for the support of the public schools.

Note the "S" added to payment.

2) Change language in (3)(b)(II) to reference the source figure in (3)(a) with language identical to that used in the revised (3)(b)(I) :

~~"(3)(b)(II) Commencing January 1, 1983, one-half of any balance of said fifty percent in excess of ten million one hundred thousand dollars~~ ANY BALANCE OF SAID FIFTY PERCENT REMAINING AFTER PAYMENTS PROVIDED IN PARAGRAPH (A) OF THIS SUBSECTION (3) shall be paid by the state treasurer, on or before the last day of December of each year, into the local government mineral impact fund and used in accordance with the purposes described in subsection (1) of this section."

CLEAN UP

PROPOSED LEGISLATION TO LINK FEDERAL MINERAL LEASE DIRECT DISTRIBUTION STATUTE TO THE SEVERANCE TAX EMPLOYEE RESIDENCE REPORTS.

PROBLEM: The Federal Mineral Lease statute does not specifically reference the source of the employee residence data to be used in the distribution under C.R.S. 34-63-102(3)(b)(III).

DISCUSSION PRO/CON: This just clarifies existing statutory intent.

SOLUTION: Reference the severance statute which creates the employee residence reporting and data.

"34-63-102 (3)(b)(III) An amount equal to twenty-five percent of the balance paid to the local government mineral impact fund pursuant to subparagraph (II) of this paragraph (b) shall be distributed annually to each county, in whose unincorporated area employees of a mine or related facility from which such money is derived reside, in the same proportion that the number of such employees bears to the total number of employees of such mines and related facilities who reside in the state and to each municipality, in which employees of such facilities reside, in the same proportion that the number thereof bears to the total number of employees of such mines and related facilities who reside in the state AS OBTAINED FROM IN THE EMPLOYEE RESIDENCE REPORTS PROVIDED UNDER SECTION C.R.S. 39-29-110(1)(d)(I)."

PROBLEM: Hb07-1139 which increased the Local Government Severance Tax Fund direct distributions to towns and counties stated:

C.R.S.39-29-110(1)(c.5)(II) "THIRTY PERCENT OF RECEIPTS AND INCOME SHALL BE DISTRIBUTED OR LOANED TO COUNTIES OR MUNICIPALITIES IN THE MANNER SPECIFIED IN PARAGRAPH (c) OF THIS SUBSECTION (I)."

DISCUSSION PRO/CON: It does not appear that the legislators intended for the direct distributions to be loaned. This would be quite problematic to implement.

SOLUTION: Delete the words "OR LOANED" IN C.R.S. 39-29-110(1)(c.5)(II).

II - PROPOSED STATUTE TO CLARIFY AND RATIONALIZE THE EMPLOYEE RESIDENCE REPORTING (ERR) PROCESS

PROBLEMS:

- 1) Ambiguous definition of who should make a severance taxpayer employee residence report (ERR).
- 2) The complexity of a separate reporting process.
- 3) Confusing and obsolete definitions of the employees that are to be reported.
- 4) Current statute does not require the taxpayer report to specify the employees involved in federal mineral lease production, which is needed to implement C.R.S.34-63-102(3)(b)(III).
- 5) Lead department specified does not have the motivation to make the process efficient and accurate.
- 6) The report process should be moved to December to make it easier for the operators to capture the corporate payroll information for the calendar year.

SOLUTION: Terminate the wasteful separate reporting process for the ERR. Link both the definition of who should report and the reporting process to an existing taxpayer reporting process in the Department of Revenue. Revise the eligible employee definitions to simplify them and reflect modern business practice. Add the requirement to declare the federal mineral lease related employees. Specify the Department of Local Affairs as the lead department. Move reporting form notification processes up four months.

DISCUSSION PRO/CON:

Current statute contains contradictory language about who must report their employee's residence. The mineral taxation sections provide for exemption from taxation, yet require that the producers thereby exempted must still make the employee residence report. In contrast, the actual direct distribution section of statute says "39-29-110(1)(d)(I) Any producer not liable for severance tax under

this section shall not be required to submit a report under this subsection (1)." The direct distribution statute also instructs the Department of Revenue to send the reporting forms to "every producer who is subject to the severance tax and whose payment is subject to the distribution formula provided in this subsection (1)", which implies that only those taxpayers who make payments are required to make the report.

There are an estimated 8,000 production interest owners in Colorado. Meanwhile, there are only 350 or so operator/producers. It is this later group which has the sustained reporting relationship with government agencies representing the myriad interest owners in the production .

Current Colorado statute on the state severance tax has a revenue reporting requirement for "every person producing or extracting oil shale or oil and gas deposits located within this state" and "every producer or purchaser who disburses funds that are owed to any person owning . . . any . . . interest in any oil or gas produced in Colorado." The Department of Revenue has an existing reporting relationship with a limited set of producer operators under these sections of law. It would be efficient to piggy-back the ERR reporting requirement onto these pre existing definitions and reporting process under the tax law. Make the responsible reporting party the same operator who has this relationship with the Department of Revenue.

PROPOSED STATUTORY CHANGE:

1) Clarify and simplify who should file the ERR's by removing the confusing and contradictory statement: "Nothing in this subsection (1) shall exempt a company from submitting a production employee report as required by section 39-29-110 (1) (d) (I)." clauses from the Metals (103), Moly (104), oil and gas (105), and coal (106) severance tax rate sections.

Discussion: Taxpayers exempt under these tax statutes represent a very small percent of the total employee counts reported. The taxpayers find it very difficult to understand why, if they are not subject to the tax, they still need to make an employee report, especially when the report will show one or zero qualified employees. Use the definitions in Section 111 and 112 for severance tax withholding to define who should make the ERR.

2) Link the ERR requirement to the existing Department of Revenue reporting requirements, make DoLA the administrative agency, and put key functions into separate statutory sections.

~~39-29-110(1)(d)(I) Ninety days prior to the end of each fiscal year, the executive director of the department of revenue shall send every producer who is subject to the severance tax and whose payment is subject to the distribution formula provided in this subsection (1) a form on which the producer~~ **EVERY PRODUCER, PERSON OR CORPORATIONS WHICH IS OBLIGATED TO MAKE A REPORT TO THE DEPARTMENT OF REVENUE AS REQUIRED UNDER SECTION 39-29-111 OR SECTION 39-29-112 shall submit a report to the**

department of ~~revenue~~ **LOCAL AFFAIRS IN A FORMAT SPECIFIED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS** indicating the following: The name and address of the producer, the name of the mine, related facility, or operation, the names of the municipalities or counties in which its employees maintain their actual residences as given by the employees, giving the number of employees for each such municipality or unincorporated area of each such county, and the total number of employees of the mine or related facility or crude oil, natural gas, or oil and gas operation. ~~The producer may use and submit any other report form in lieu of the state form sent by the executive director of the department of revenue that contains the same information as prescribed in the state form.~~ The report shall be due April 30 of each year. ~~The executive director of the department of revenue shall submit a copy of the report required by this paragraph (d) to the executive director of the department of local affairs.~~ Moneys distributed from the local government severance tax fund pursuant to paragraph (e) of this subsection (1) shall be distributed no later than August 31 of each year. [RELOCATED to (d)(IV) below] ~~Any producer not liable for severance tax under this section shall not be required to submit a report under this subsection (1).~~

~~(1)(d)(II)(A) For purposes of this subsection (1), a "producer of crude oil, natural gas, or oil and gas" means any person who files a crude oil, natural gas, or oil and gas production report with the oil and gas conservation commission pursuant to article 60 of title 34, C.R.S. A producer shall include a producer-operator or a unit operator. A list of such producers, together with their addresses, who operated in the state during the previous calendar year shall be furnished to the department of revenue by said oil and gas conservation commission no later than January 31 of each year.~~

New section relocated from (d)(I) above:

39-29-110(1)(d)(II)(C) In the case of failure of any producer to submit the report on or before the date required by this paragraph (d) to the department of ~~revenue~~ **LOCAL AFFAIRS**, a written notice shall be sent to the producer by the department of ~~revenue~~ **LOCAL AFFAIRS** by first-class mail ~~as set forth in section 39-21-105.5~~ stating that the producer has failed to submit a copy of the report required by this paragraph (d) and informing the producer of the penalty provision contained in this paragraph (d). If the producer fails within forty-five days after receipt of the written notice to submit the required report, there shall be levied and collected a penalty for the failure in the amount of fifty dollars for each day, or portion thereof, during which the failure continues. Any moneys and interest collected under this paragraph (d) shall be added to the fifteen percent of gross receipts from the local government severance tax fund and distributed to counties or municipalities in the manner prescribed by paragraph (c) of this subsection (1).

DISCUSSION: Make the ERR form an electronic version suitable for on-line and electronic transmission of the data. Remove option of taxpayer created form. Use the reporting qualifications specified in Sec 111 and 112 to simplify this decision.

Similar reporting linkage would need to be established for metals, moly, coal and oil shale operators.

3) Simplified definition of eligible employees to be reported.

~~"39-29-110(1)(d)(II)(A) For purposes of this subsection (1), a "producer of crude oil, natural gas, or oil and gas" means any person who files a crude oil, natural gas, or oil and gas production report with the oil and gas conservation commission pursuant to article 60 of title 34, C.R.S. A producer shall include a producer-operator or a unit operator. A list of such producers, together with their addresses, who operated in the state during the previous calendar year shall be furnished to the department of revenue by said oil and gas conservation commission no later than January 31 of each year. [REPEALED]~~

~~(1)(d)(II)(B) For purposes of this paragraph (d), an "employee of a crude oil, natural gas, or oil and gas operation" means any individual who is employed and compensated on a full-time basis FOR AT LEAST 400 HOURS OF WORK IN THE SIX MONTHS PRIOR TO DECEMBER 31 OF THE REPORTING YEAR by A CONTRACTOR TO OR the producer OR INTEREST OWNER FOR WHICH THE REPORT IS BEING MADE of crude oil, natural gas, or oil and gas, as defined in sub-subparagraph (A) of this subparagraph (II), for the purposes of extracting such crude oil, natural gas, or oil and gas out of the ground and at point of first sale. Such employee may include any individual who is employed by any company or person who contracts with such producer for purposes of extracting such crude oil, natural gas, or oil and gas out of the ground and at point of first sale. "Individual who is employed on a full-time basis" means an employee who has worked for the producer or contractor during the six-month period next preceding the last day of the annual reporting period. "Employee" does not mean any employee of any exploration or drilling crew, any employee of any well service company, or any other contractor or person who may work in any such operation on a periodic or temporary basis and who is employed by companies or entities other than the producer.~~

~~(1)(e) Counties and municipalities shall utilize revenues received under this subsection (1) only for the purposes of capital expenses and general operating expenses. [RELOCATED to 39-29-(1)(d)(IV)]~~

~~(1)(f) For the purpose of this subsection (1), "related facility" means an oil shale retorting and upgrading facility. "~~

New section relocated from (d) and (e) above:

39-29-110(1)(d)(IV) Moneys distributed from the local government severance tax fund pursuant to paragraph (c) of this subsection (1) shall be distributed no later than August 31 of each year. Counties and municipalities shall utilize revenues received under this subsection (1) only for the purposes of capital expenses and general operating expenses.

USE THE EMPLOYEE RESIDENCE REPORT TO ALLOCATE TO COUNTY AREAS, AND OFFICIAL POPULATION ESTIMATES TO APPORTION THESE COUNTY TOTALS TO TOWNS AND THE COUNTY.

PROBLEMS:

The employee residence reporting process had significant difficulty accurately determining the precise city or county status of the employee addresses.

DISCUSSION PRO/CON: It is not efficient to force the employees, employers and state agencies to try to determine this information. The request for the information is intrusive, the responses sometimes ambiguous, and the determination of the incorporated/unincorporated status still difficult after all that.

Most parties can easily identify the county of residence. Therefore, report only the county of residence in the ERR process. Use the State Demographer's Office population estimates to apportion the county area payment to the constituent towns and unincorporated county.

PROPOSED STATUTORY CHANGE:

"C.R.S.39-29-110(1)(c) An amount equal to fifteen percent of said gross receipts credited to the fund shall be distributed to count~~Yies or municipalities~~ **AREAS** on the basis of the proportion of employees of the mine or related facility or crude oil, natural gas, or oil and gas operation who reside in any such county's ~~unincorporated area or in any such municipality to the total number of employees of the mine or related facility or crude oil, natural gas, or oil and gas operation.~~ Such distribution shall be made on the basis of the report required in paragraph (d) of this subsection (1). **WITHIN EACH COUNTY ALLOCATION THE AMOUNT SO CALCULATED SHALL BE DISTRIBUTED TO THE MUNICIPALITIES AND COUNTY ON THE BASIS OF THE MOST RECENT PUBLISHED POPULATION ESITMATES FROM THE STATE DEMOGRAPHER'S OFFICE IN THE DEPARTMENT OF LOCAL AFFAIRS."**

And, for federal mineral lease:

"34-63-102 (3)(b)(III) An amount equal to twenty-five percent of the balance paid to the local government mineral impact fund pursuant to subparagraph (II) of this paragraph (b) shall be distributed annually to each county,~~in whose unincorporated area employees of a mine or related facility from which such money is derived reside,~~ AREA in the same proportion that the number of such employees bears to the total number of employees of such mines and related facilities who reside in the state~~and to each municipality, in which employees of such facilities reside, in the same proportion that the number thereof bears to the total number of employees of such mines and related facilities who reside in the state~~ AS OBTAINED FROM IN THE EMPLOYEE RESIDENCE REPORTS PROVIDED UNDER SECTION C.R.S. 39-29-110(1)(d)(I). **WITHIN EACH COUNTY ALLOCATION THE AMOUNT SO CALCULATED SHALL BE DISTRIBUTED TO THE MUNICIPALITIES AND COUNTY ON THE BASIS OF THE MOST RECENT PUBLISHED**

**POPULATION ESITMATES FROM THE STATE DEMOGRAPHER'S OFFICE
IN THE DEPARTMENT OF LOCAL AFFAIRS."**

III - MODIFY THE METRICS USED FOR DIRECT DISTRIBUTION.

PROBLEMS:

The employee residence reporting process was created in an era when the primary mineral production in Colorado was from coal and metals mines. The intended system depended on a long term stable mineral project employer reporting on a stable workforce. Today, the bulk of employment is in the high turnover oil and gas industry with the large increase in use of contractors and growing use of dormitory type housing. This means that the data does not cover many of the local government impacts over the life cycle of mineral projects from the first speculative planning through the heavy impacts and the post project transition to a new economy. The metric also does not reflect the parallel beneficial revenue that often occurs with the mineral employment. This leaves some local governments out of the distribution and others in a catch-up situation.

DISCUSSION PRO/CON: It is not efficient to try to create a new state agency operated metric similar to the existing Employee Residence Report. Rather we should see what existing public and private metric information might be available.

A number of metrics are available which would bring in other impact factors than just the resident employment.

- Colorado Oil and Gas Conservation Commission well permit applications and production reports
- Colorado Division of Reclamation Mining and Geology abandoned mine inventory, mine production and mine permits
- Commercial drilling rig tracking reports
- Colorado Department of Highways county road miles
- Division of Property Tax and Division of Local Government budget databases with revenues and costs.
- State Demographer's Office population estimates and forecasts

These data can be ratioed and/or combined into weighted indices that would drive the direct distributions. The direct distribution could be divided into separate pots driven each by its own metric.

Since these information systems are not built and managed for the purpose of the direct distribution, we should not over specify them in statute. Rather, a general statement of metric purpose should be put in statute and the actual specification left to a formal committee.

PROPOSED STATUTORY CHANGE:

Add additional metrics to the direct distribution formula. Make the metric a weighted index of a number of these factors. Alternatively, rather than fix some specific measures in statute, have the index and its components designed and set by a statutory committee such as the advisory committee under 34-63-102(5) in a fashion that adapts to the changing nature of impacts.

Federal Mineral Lease Direct Distribution - by Local Government Entity FY 2007

Municipality	FML	Distributed Amount
Adams County		
Adams County	8	\$0.00
Arvada, City of	15	\$0.00
Bennett, Town of	1	\$0.00
Brighton, City of	14	\$0.00
Commerce City, City of	9	\$0.00
Northglenn, City of	1	\$0.00
Thornton, City of	19	\$0.00
Westminster, City of	11	\$0.00
Arapahoe County		
Aurora, City of	7	\$0.00
Deer Trail, Town of	1	\$0.00
Englewood, City of	3	\$0.00
Littleton, City of	4	\$0.00
Archuleta County		
Archuleta County	1	\$0.00
Boulder County		
Lafayette, City of	1	\$0.00
Longmont, City of	12	\$0.00
Louisville, City of	1	\$0.00
Lyons, Town of	1	\$0.00
Broomfield County		
Broomfield, City and County of	1	\$0.00
Chaffee County		
Buena Vista, Town of	1	\$0.00
Clear Creek County		
Clear Creek County	10	\$0.00
Empire, Town of	15	\$0.00
Georgetown, Town of	11	\$0.00
Idaho Springs, City of	30	\$0.00
Crowley County		
Ordway, Town of	1	\$0.00
Custer County		
Westcliffe, Town of	1	\$0.00

Municipality	FML	Distributed Amount
Delta County		
Cedaredge, Town of	12	\$0.00
Crawford, Town of	9	\$0.00
Delta County	224	\$0.00
Delta, City of	78	\$0.00
Hotchkiss, Town of	26	\$0.00
Orchard City, Town of	47	\$0.00
Paonia, Town of	46	\$0.00
Denver County		
Denver, City And County of	22	\$0.00
Dolores County		
Dolores County	11	\$0.00
Dove Creek, Town of	6	\$0.00
Douglas County		
Castle Rock, Town of	3	\$0.00
Douglas County	6	\$0.00
Lone Tree, City of	1	\$0.00
Parker, Town of	2	\$0.00
Eagle County		
Avon, Town of	1	\$0.00
Basalt, Town of	2	\$0.00
Eagle County	1	\$0.00
Eagle, Town of	1	\$0.00
El Paso County		
Colorado Springs, City of	9	\$0.00
El Paso County	3	\$0.00
Fountain, City of	2	\$0.00
Ramah, Town of	1	\$0.00
Fremont County		
Canon City, City of	3	\$0.00
Garfield County		
Carbondale, Town of	5	\$0.00
Garfield County	885	\$0.00
Glenwood Springs, City of	12	\$0.00
New Castle, Town of	13	\$0.00
Parachute, Town of	181	\$0.00
Rifle, City of	230	\$0.00
Silt, Town of	34	\$0.00

Federal Mineral Lease Direct Distribution - by Local Government Entity FY 2007

Municipality	FML	Distributed Amount
Grand County		
Granby, Town of	2	\$0.00
Grand County	1	\$0.00
Grand Lake, Town of	2	\$0.00
Kremmling, Town of	2	\$0.00
Gunnison County		
Gunnison County	9	\$0.00
Hinsdale County		
Lake City, Town of	3	\$0.00
Jackson County		
Jackson County	2	\$0.00
Walden, Town of	1	\$0.00
Jefferson County		
Edgewater, City of	2	\$0.00
Golden, City of	6	\$0.00
Jefferson County	30	\$0.00
Lakewood, City of	14	\$0.00
Wheat Ridge, City of	6	\$0.00
La Plata County		
Bayfield, Town of	3	\$0.00
Durango, City of	4	\$0.00
Ignacio, Town of	4	\$0.00
La Plata County	21	\$0.00
Lake County		
Leadville, City of	1	\$0.00
Larimer County		
Fort Collins, City of	6	\$0.00
Johnstown, Town of	16	\$0.00
Larimer County	6	\$0.00
Loveland, City of	10	\$0.00
Wellington, Town of	1	\$0.00
Windsor, Town of	4	\$0.00
Las Animas County		
Las Animas County	2	\$0.00

Municipality	FML	Distributed Amount
Logan County		
Fleming, Town of	1	\$0.00
Logan County	2	\$0.00
Merino, Town of	1	\$0.00
Sterling, City of	19	\$0.00
Mesa County		
Collbran, Town of	16	\$0.00
De Beque, Town of	31	\$0.00
Fruita, City of	265	\$0.00
Grand Junction, City of	1012	\$0.00
Mesa County	1234	\$0.00
Palisade, Town of	39	\$0.00
Moffat County		
Craig, City of	646	\$0.00
Dinosaur, Town of	22	\$0.00
Moffat County	113	\$0.00
Montezuma County		
Cortez, City of	13	\$0.00
Dolores, Town of	1	\$0.00
Montezuma County	31	\$0.00
Montrose County		
Montrose County	9	\$0.00
Montrose, City of	17	\$0.00
Naturita, Town of	15	\$0.00
Nucla, Town of	10	\$0.00
Olathe, Town of	3	\$0.00
Morgan County		
Brush, City of	3	\$0.00
Fort Morgan, City of	3	\$0.00
Morgan County	13	\$0.00
Ouray County		
Ouray County	1	\$0.00
Ridgway, Town of	1	\$0.00
Phillips County		
Holyoke, City of	1	\$0.00

Federal Mineral Lease Direct Distribution - by Local Government Entity FY 2007

Municipality	FML	Distributed Amount	Municipality	FML	Distributed Amount
Prowers County			Weld County		
Holly, Town of	1	\$0.00	Ault, Town of	2	\$0.00
Lamar, City of	2	\$0.00	Berthoud, Town of	1	\$0.00
Wiley, Town of	1	\$0.00	Eaton, Town of	6	\$0.00
			Eric, Town of	1	\$0.00
Pueblo County			Evans, City of	44	\$0.00
Pueblo County	1	\$0.00	Firestone, Town of	2	\$0.00
Pueblo, City of	3	\$0.00	Fort Lupton, City of	25	\$0.00
			Frederick, Town of	3	\$0.00
Rio Blanco County			Garden City, Town of	2	\$0.00
Meeker, Town of	93	\$0.00	Gilcrest, Town of	3	\$0.00
Rangely, Town of	254	\$0.00	Greeley, City of	92	\$0.00
Rio Blanco County	204	\$0.00	Hudson, Town of	2	\$0.00
			Keenesburg, Town of	2	\$0.00
Routt County			Kersey, Town of	5	\$0.00
Hayden, Town of	46	\$0.00	La Salle, Town of	7	\$0.00
Oak Creek, Town of	21	\$0.00	Milliken, Town of	1	\$0.00
Routt County	31	\$0.00	Platteville, Town of	11	\$0.00
Steamboat Springs, City of	32	\$0.00	Severance, Town of	1	\$0.00
Yampa, Town of	5	\$0.00	Weld County	62	\$0.00
Saguache County			Yuma County		
Center, Town of	1	\$0.00	Eckley, Town of	4	\$0.00
			Wray, City of	10	\$0.00
San Miguel County			Yuma County	17	\$0.00
Norwood, Town of	9	\$0.00	Yuma, City of	11	\$0.00
San Miguel County	16	\$0.00			
Summit County					
Dillon, Town of	1	\$0.00			
Silverthorne, Town of	1	\$0.00			
Summit County	1	\$0.00			
Teller County					
Woodland Park, City of	1	\$0.00			
Washington County					
Washington County	2	\$0.00			

FML Totals:	Employee Count	Distributed Amount	Rate / Employee
	6775	\$0.00	\$0.00

Severance Direct Distribution - by Local Government Entity FY 2007

	Coal	Metals	Oil and Gas	Distributed Amount
Adams County				
Adams County	0	3	13	\$0.00
Arvada, City of	0	11	7	\$0.00
Bennett, Town of	0	1	8	\$0.00
Brighton, City of	0	0	62	\$0.00
Commerce City, City of	0	0	16	\$0.00
Lochbuie, Town of	0	0	7	\$0.00
Northglenn, City of	0	0	7	\$0.00
Thornton, City of	0	10	27	\$0.00
Westminster, City of	0	9	9	\$0.00
Arapahoe County				
Arapahoe County	0	0	5	\$0.00
Aurora, City of	0	2	15	\$0.00
Deer Trail, Town of	0	0	3	\$0.00
Englewood, City of	0	2	2	\$0.00
Littleton, City of	0	1	4	\$0.00
Archuleta County				
Archuleta County	0	0	2	\$0.00
Baca County				
Baca County	0	0	2	\$0.00
Springfield, Town of	0	0	4	\$0.00
Boulder County				
Boulder, City of	0	0	1	\$0.00
Lafayette, City of	0	0	1	\$0.00
Longmont, City of	0	0	24	\$0.00
Louisville, City of	0	0	1	\$0.00
Lyons, Town of	0	0	2	\$0.00
Broomfield County				
Broomfield, City and County of	0	1	1	\$0.00
Chaffee County				
Buena Vista, Town of	0	1	0	\$0.00
Cheyenne County				
Cheyenne County	0	0	6	\$0.00
Cheyenne Wells, Town of	0	0	12	\$0.00
Kit Carson, Town of	0	0	5	\$0.00

Severance Direct Distribution - by Local Government Entity FY 2007

	Coal	Metals	Oil and Gas	Distributed Amount
Clear Creek County				
Clear Creek County	0	10	0	\$0.00
Empire, Town of	0	15	0	\$0.00
Georgetown, Town of	0	11	1	\$0.00
Idaho Springs, City of	0	30	0	\$0.00
Crowley County				
Ordway, Town of	0	0	1	\$0.00
Delta County				
Cedaredge, Town of	23	0	6	\$0.00
Crawford, Town of	17	0	3	\$0.00
Delta County	395	0	15	\$0.00
Delta, City of	129	0	11	\$0.00
Hotchkiss, Town of	42	0	1	\$0.00
Orchard City, Town of	65	0	8	\$0.00
Paonia, Town of	91	0	2	\$0.00
Denver County				
Denver, City And County of	0	9	24	\$0.00
Dolores County				
Dolores County	0	0	11	\$0.00
Dove Creek, Town of	0	0	14	\$0.00
Douglas County				
Castle Rock, Town of	0	0	7	\$0.00
Douglas County	0	0	8	\$0.00
Parker, Town of	0	0	4	\$0.00
Eagle County				
Avon, Town of	0	1	0	\$0.00
Basalt, Town of	0	0	2	\$0.00
Eagle County	0	0	1	\$0.00
Eagle, Town of	0	0	2	\$0.00
Gypsum, Town of	0	0	1	\$0.00
El Paso County				
Colorado Springs, City of	0	19	11	\$0.00
El Paso County	1	7	4	\$0.00
Fountain, City of	0	1	1	\$0.00
Green Mountain Falls, Town of	0	0	1	\$0.00
Ramah, Town of	0	0	1	\$0.00
Elbert County				
Kiowa, Town of	0	0	2	\$0.00

Severance Direct Distribution - by Local Government Entity FY 2007

	Coal	Metals	Oil and Gas	Distributed Amount
Fremont County				
Canon City, City of	0	57	5	\$0.00
Fremont County	0	22	3	\$0.00
Rockvale, Town of	0	0	1	\$0.00
Williamsburg, Town of	0	0	1	\$0.00
Garfield County				
Carbondale, Town of	0	0	6	\$0.00
Garfield County	1	0	920	\$0.00
Glenwood Springs, City of	1	0	16	\$0.00
New Castle, Town of	1	1	10	\$0.00
Parachute, Town of	0	0	219	\$0.00
Rifle, City of	3	0	260	\$0.00
Silt, Town of	0	0	47	\$0.00
Grand County				
Granby, Town of	0	2	0	\$0.00
Grand County	0	1	0	\$0.00
Grand Lake, Town of	0	2	0	\$0.00
Kremmling, Town of	0	1	1	\$0.00
Gunnison County				
Gunnison County	12	0	0	\$0.00
Hinsdale County				
Lake City, Town of	0	3	0	\$0.00
Huerfano County				
Huerfano County	0	0	12	\$0.00
La Veta, Town of	0	0	2	\$0.00
Walsenburg, City of	0	0	13	\$0.00
Jackson County				
Jackson County	1	0	2	\$0.00
Walden, Town of	0	0	3	\$0.00
Jefferson County				
Edgewater, City of	0	1	1	\$0.00
Golden, City of	0	4	5	\$0.00
Jefferson County	0	26	10	\$0.00
Lakewood, City of	0	9	13	\$0.00
Wheat Ridge, City of	0	6	1	\$0.00
Kiowa County				
Kiowa County	0	0	1	\$0.00
Sheridan Lake, Town of	0	0	3	\$0.00

Severance Direct Distribution - by Local Government Entity FY 2007

	Coal	Metals	Oil and Gas	Distributed Amount
Kit Carson County				
Burlington, City of	0	0	4	\$0.00
La Plata County				
Bayfield, Town of	0	0	23	\$0.00
Durango, City of	3	0	47	\$0.00
Ignacio, Town of	0	0	13	\$0.00
La Plata County	6	0	51	\$0.00
Lake County				
Lake County	0	1	0	\$0.00
Leadville, City of	0	0	1	\$0.00
Larimer County				
Fort Collins, City of	0	0	13	\$0.00
Johnstown, Town of	0	0	22	\$0.00
Larimer County	0	0	11	\$0.00
Loveland, City of	0	0	39	\$0.00
Wellington, Town of	0	0	1	\$0.00
Windsor, Town of	0	0	12	\$0.00
Las Animas County				
Aguilar, Town of	0	0	11	\$0.00
Cokedale, Town of	0	0	6	\$0.00
Las Animas County	0	0	107	\$0.00
Starkville, Town of	0	0	1	\$0.00
Trinidad, City of	0	0	182	\$0.00
Lincoln County				
Hugo, Town of	0	0	2	\$0.00
Lincoln County	0	0	1	\$0.00
Logan County				
Fleming, Town of	0	0	2	\$0.00
Logan County	0	0	13	\$0.00
Merino, Town of	0	0	4	\$0.00
Peetz, Town of	0	0	1	\$0.00
Sterling, City of	0	0	50	\$0.00
Mesa County				
Collbran, Town of	0	0	17	\$0.00
De Beque, Town of	0	0	36	\$0.00
Fruita, City of	6	0	263	\$0.00
Grand Junction, City of	28	0	980	\$0.00
Mesa County	49	1	1216	\$0.00
Palisade, Town of	0	0	38	\$0.00

Severance Direct Distribution - by Local Government Entity FY 2007

	Coal	Metals	Oil and Gas	Distributed Amount
Moffat County				
Craig, City of	597	0	58	\$0.00
Dinosaur, Town of	8	0	15	\$0.00
Moffat County	107	0	6	\$0.00
Montezuma County				
Cortez, City of	5	0	15	\$0.00
Dolores, Town of	0	0	2	\$0.00
Mancos, Town of	0	0	1	\$0.00
Montezuma County	5	0	29	\$0.00
Montrose County				
Montrose County	35	0	4	\$0.00
Montrose, City of	14	0	12	\$0.00
Naturita, Town of	4	0	16	\$0.00
Nucla, Town of	8	0	15	\$0.00
Olathe, Town of	4	0	4	\$0.00
Morgan County				
Brush, City of	0	0	10	\$0.00
Fort Morgan, City of	0	0	27	\$0.00
Morgan County	0	0	41	\$0.00
Wiggins, Town of	0	0	4	\$0.00
Otero County				
La Junta, City of	0	0	1	\$0.00
Ouray County				
Ouray County	0	1	0	\$0.00
Ridgway, Town of	0	0	1	\$0.00
Park County				
Fairplay, Town of	0	0	1	\$0.00
Park County	0	17	1	\$0.00
Prowers County				
Holly, Town of	0	0	1	\$0.00
Lamar, City of	0	0	4	\$0.00
Prowers County	0	0	1	\$0.00
Wiley, Town of	0	0	2	\$0.00
Pueblo County				
Pueblo County	0	0	5	\$0.00
Pueblo, City of	0	7	3	\$0.00

Severance Direct Distribution - by Local Government Entity FY 2007

	Coal	Metals	Oil and Gas	Distributed Amount
Rio Blanco County				
Meeker, Town of	57	3	47	\$0.00
Rangely, Town of	65	0	194	\$0.00
Rio Blanco County	24	0	187	\$0.00
Routt County				
Hayden, Town of	45	0	2	\$0.00
Oak Creek, Town of	21	0	1	\$0.00
Routt County	30	0	5	\$0.00
Steamboat Springs, City of	31	0	1	\$0.00
Yampa, Town of	5	0	0	\$0.00
Saguache County				
Center, Town of	0	0	1	\$0.00
San Juan County				
Silverton, Town of	0	0	1	\$0.00
San Miguel County				
Norwood, Town of	0	0	9	\$0.00
San Miguel County	1	0	19	\$0.00
Summit County				
Dillon, Town of	0	1	0	\$0.00
Silverthorne, Town of	0	0	1	\$0.00
Summit County	0	1	0	\$0.00
Teller County				
Cripple Creek, City of	0	38	0	\$0.00
Teller County	0	74	0	\$0.00
Victor, City of	0	32	0	\$0.00
Woodland Park, City of	0	54	1	\$0.00
Washington County				
Akron, Town of	0	0	3	\$0.00
Washington County	0	0	3	\$0.00

Severance Direct Distribution - by Local Government Entity FY 2007

	Coal	Metals	Oil and Gas	Distributed Amount
Weld County				
Ault, Town of	0	0	5	\$0.00
Berthoud, Town of	0	0	2	\$0.00
Dacono, City of	0	0	1	\$0.00
Eaton, Town of	0	0	10	\$0.00
Erie, Town of	0	0	3	\$0.00
Evans, City of	0	0	93	\$0.00
Firestone, Town of	0	0	3	\$0.00
Fort Lupton, City of	0	0	69	\$0.00
Frederick, Town of	0	0	6	\$0.00
Garden City, Town of	0	0	3	\$0.00
Gilcrest, Town of	0	0	6	\$0.00
Greeley, City of	0	0	202	\$0.00
Hudson, Town of	0	0	5	\$0.00
Keenesburg, Town of	0	1	7	\$0.00
Kersey, Town of	0	0	13	\$0.00
La Salle, Town of	0	0	14	\$0.00
Milliken, Town of	0	0	11	\$0.00
Pierce, Town of	0	0	1	\$0.00
Platteville, Town of	0	0	18	\$0.00
Severance, Town of	0	0	3	\$0.00
Weld County	0	0	141	\$0.00
Yuma County				
Eckley, Town of	0	0	8	\$0.00
Wray, City of	0	0	45	\$0.00
Yuma County	0	0	53	\$0.00
Yuma, City of	0	0	22	\$0.00

Totals:	Mineral Type	Emp. #	Distributed Amount	Rate / Emp.
	Coal	1940	\$0.00	\$0.00
	Metals	510	\$0.00	\$0.00
	Oil and Gas	6608	\$0.00	\$0.00
	Total Distribution:		\$0.00	

Severance Direct Distribution - by Local Government Entity FY 2007

	Coal	Metals	Oil and Gas	Distributed Amount
Adams County				
Adams County	0	3	13	\$0.00
Arvada, City of	0	11	7	\$0.00
Bennett, Town of	0	1	8	\$0.00
Brighton, City of	0	0	62	\$0.00
Commerce City, City of	0	0	16	\$0.00
Lochbuie, Town of	0	0	7	\$0.00
Northglenn, City of	0	0	7	\$0.00
Thornton, City of	0	10	27	\$0.00
Westminster, City of	0	9	9	\$0.00
Arapahoe County				
Arapahoe County	0	0	5	\$0.00
Aurora, City of	0	2	15	\$0.00
Deer Trail, Town of	0	0	3	\$0.00
Englewood, City of	0	2	2	\$0.00
Littleton, City of	0	1	4	\$0.00
Archuleta County				
Archuleta County	0	0	2	\$0.00
Baca County				
Baca County	0	0	2	\$0.00
Springfield, Town of	0	0	4	\$0.00
Boulder County				
Boulder, City of	0	0	1	\$0.00
Lafayette, City of	0	0	1	\$0.00
Longmont, City of	0	0	24	\$0.00
Louisville, City of	0	0	1	\$0.00
Lyons, Town of	0	0	2	\$0.00
Broomfield County				
Broomfield, City and County of	0	1	1	\$0.00
Chaffee County				
Buena Vista, Town of	0	1	0	\$0.00
Cheyenne County				
Cheyenne County	0	0	6	\$0.00
Cheyenne Wells, Town of	0	0	12	\$0.00
Kit Carson, Town of	0	0	5	\$0.00

Severance Direct Distribution - by Local Government Entity FY 2007

	Coal	Metals	Oil and Gas	Distributed Amount
Clear Creek County				
Clear Creek County	0	10	0	\$0.00
Empire, Town of	0	15	0	\$0.00
Georgetown, Town of	0	11	1	\$0.00
Idaho Springs, City of	0	30	0	\$0.00
Crowley County				
Ordway, Town of	0	0	1	\$0.00
Delta County				
Cedaredge, Town of	23	0	6	\$0.00
Crawford, Town of	17	0	3	\$0.00
Delta County	395	0	15	\$0.00
Delta, City of	129	0	11	\$0.00
Hotchkiss, Town of	42	0	1	\$0.00
Orchard City, Town of	65	0	8	\$0.00
Paonia, Town of	91	0	2	\$0.00
Denver County				
Denver, City And County of	0	9	24	\$0.00
Dolores County				
Dolores County	0	0	11	\$0.00
Dove Creek, Town of	0	0	14	\$0.00
Douglas County				
Castle Rock, Town of	0	0	7	\$0.00
Douglas County	0	0	8	\$0.00
Parker, Town of	0	0	4	\$0.00
Eagle County				
Avon, Town of	0	1	0	\$0.00
Basalt, Town of	0	0	2	\$0.00
Eagle County	0	0	1	\$0.00
Eagle, Town of	0	0	2	\$0.00
Gypsum, Town of	0	0	1	\$0.00
El Paso County				
Colorado Springs, City of	0	19	11	\$0.00
El Paso County	1	7	4	\$0.00
Fountain, City of	0	1	1	\$0.00
Green Mountain Falls, Town of	0	0	1	\$0.00
Ramah, Town of	0	0	1	\$0.00
Elbert County				
Kiowa, Town of	0	0	2	\$0.00